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# Continuing Education and Continuing Competence

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**Prepared by  
John Swan  
for  
The Professional Organizations Committee**

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CONTINUING EDUCATION AND CONTINUING COMPETENCE

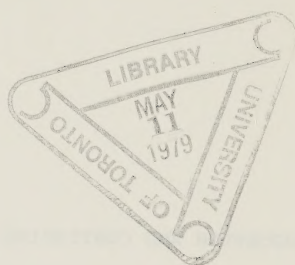
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1. Scope of Study

This paper is a supplement to the paper on Discipline by Professor Reiter<sup>2</sup> and that on Civil Liability by Professor Belobaba.<sup>3</sup> Most of the issues that will be discussed in this paper have already been mentioned in one or other of those papers. The particular focus of this paper will be on the choices that can be included under the general heading of continuing education and that are open to any professional body to ensure the continuing competence of its members. Continuing education has two aspects. It is, first, a general method of ensuring the continued competence of the members of a profession. This aspect of continuing education will be discussed later in this paper. Second, it is one class of sanctions that can be invoked in any process of professional discipline. This paper will analyze the range of sanctions in this class and what factors are likely to influence the effectiveness of this method. The relationship of this class of sanctions to the wider issues of professional discipline and civil liability as means of ensuring competence will also be examined. There is no reason to assume that only through the discipline or civil liability process can continuing competence be encouraged: there are other methods.



In general, the analysis undertaken will be based largely on the same facts as the earlier two papers. It is not proposed to analyze extensively the general issues of adult education or to make specific proposals in respect of any of the professions being studied. It is implicit in the whole process of self-regulation that the professional regulatory body alone has the expert knowledge required to determine what is competence (or incompetence) in the practice of the profession and what should be done to ensure competence. It is possible, however, to say something about what methods are likely to be effective and what are not and why. It is assumed, however, that the existence of incompetence in any profession is a matter of public concern, and that the professional body can be expected to take steps to ensure that the competence of the members of the profession is maintained.<sup>4</sup>

## 2. The Problem of Standards and The Definition of Incompetence

The existence of any discipline procedure that will assert jurisdiction in cases of incompetence and the fact that members of a profession can be sued for negligence require that there be standards against which the performance of a member of a profession may be tested. It has been asserted by the Law Society, for example, that incompetence that amounts to misconduct will be dealt with by the discipline process.<sup>5</sup> The standard here is that there must be a "course of conduct which demonstrates incompetence, misfeasance or nonfeasance ... a pattern of error or default."<sup>6</sup> The I.C.A.O., on the other hand, adopts as the stated standard for competence matters the "normally expected practice" of accountants in a particular situation.<sup>7</sup> The courts have had to apply standards in cases brought before them. For example, in regard to architects and engineers, it has been said that:

"[They] are expected to be possessed of reasonably competent skill in the exercise of their particular calling, but not infallible, nor is perfection expected, and the most that can be required of them is the exercise of reasonable care and prudence in the light of scientific knowledge at the time, of which they should be aware."<sup>8</sup>

It is clear from even this brief survey that standards for the competent performance of professional work have been set. It is necessary, however, to be careful about the kind of standards that are set and how they are to be used.

It will be useful to raise here an issue that frequently arises when standards of competence are discussed. It is obvious that the application of any standard involves an element of judgment. This is inherent in the use of the word "reasonable" in the standard of professional negligence: "Did the defendant professional take such steps as were reasonable in the circumstances?" But the fact that judgment is required and that this judgment may have to be the judgment of an individual (for example, a trial judge) or a committee acting within the discipline process does not mean that the application of the standard is unacceptably subjective or imprecise. What is reasonable in any particular situation can be reasoned about and can, to a great extent, be expressed in objective terms. For example, the standards applied by the I.C.A.O. are frequently expressed in publications like the C.I.C.A. Handbook. Where there may not be such a precise set of standards there may nevertheless be general agreement on what constitutes unacceptable performance. The line between acceptable and unacceptable work may not be clear. There may be little doubt that performance that departs "dramatically"<sup>9</sup> from that of the reasonably competent professional is incompetent. The existence of more doubt on the question of where to draw the line as one moves higher up the scale means, as might have been expected, that the line between competence and incompetence may be hard to draw. The fact that a line may be hard to draw does not mean that no line can be drawn: there are, after all, clear



cases on both sides of it. The use of a test like reasonableness also permits a high degree of individualization of each case. It may, for example, be open to a professional charged with incompetence to argue that, at the client's request, he did something in a way that he would not usually do it. Whether there should be a standard below which a professional should never, even at the express request of the client, be allowed to go is an issue that does not have to be resolved here.

There are four separate issues that have to be distinguished in any discussion of incompetence. The first is that in some cases of discipline, particularly disciplinary proceedings where the professional is threatened with expulsion or suspension, it would be appropriate to have a fairly restricted definition of incompetence. The Law Society now, as has been mentioned, will discipline where there is "a course of conduct which demonstrates incompetence ... a pattern of error or default."<sup>10</sup> This kind of definition can be justified in such a case on the ground that without a pattern of incompetence it would be unreasonable to apply what amounts to professional capital punishment. Considerations of fairness in the sense of due process in the proceedings--adequate notice of the charge and an effective opportunity to defend by being given a precisely worded statement of the offence charged--would also require a narrow definition of incompetence in this case. There is no reason to assume, however, that because a narrow definition is appropriate here, it is appropriate everywhere.

The second point is that the definition of incompetence for purposes of determining civil liability can obviously be used by the professional body as a standard for concern about a member's competence. In other words, the fact that a court has found that a professional was negligent would be a justification for the professional body's taking steps to ensure that that member of the profession was competent. Professor Belobaba has outlined the standards that have been applied in each profession in regard to the imposition of civil liability.<sup>11</sup> The adoption of these standards will lead to professional concern for competence in a wider range of cases that would be the case if it were necessary that a pattern of incompetence be shown. This is because the civil action which leads to a finding of negligence is triggered by very different factors. From the point of view of the client who is harmed by the negligence of a professional it is immaterial that the negligent act occurred in one isolated incident or as part of a pattern of incompetence. Evidence of such a pattern may be relevant in an action for damages brought by a client who has been harmed by a professional's negligence in the sense that it may make the finding of fault easier and may have some bearing on the issue of remoteness of damage.<sup>12</sup> But there is no necessary connection between any pattern of behaviour or practice and the court's finding that the professional was negligent. In this sense then the definition of incompetence used for purposes of determining issues of professional negligence is separate from

the issue of discipline. However, if we think of the discipline process more widely and as a process that need not (at least immediately) lead to expulsion or suspension, then the kind of incompetence that would trigger civil liability could also trigger disciplinary proceedings. The fact that the definition is imprecise in that it incorporates standards of reasonableness may be a reason for not using it as a basis for a full-scale disciplinary hearing where issues of due process are important.

In one important situation the mere fact that civil liability was imposed may not justify any response by the professional body. If civil liability is imposed on the basis that the professional is strictly liable for any loss arising from his or his firm's work<sup>13</sup> then there may be no reason to trigger any concern for that professional's competence. Since strict liability (either direct or vicarious) is liability without fault, there may be only a concern to insure that the client is protected from financial loss, and there may be no judgment passed on the standard of practice of the professional. Again, there is simply no necessary connection between the results in proceedings to determine the issue of civil liability and concern for the professional's competence. As a practical matter, of course, the mere fact that a judgment was given against a member of the profession (in his professional capacity) may justify investigation by the professional body. If any further steps are to be taken as a result of that, however, then some other definition of incompetence or of the standard to be applied may have to be used.



The third point is that only the professional body can set standards.<sup>14</sup> Some care has to be taken, however, to set standards that are both realistic and reasonable. If standards are set that are unnecessarily high, then the costs of professional services will be higher than they need be. There is a tendency, for example, to "play it safe" on the part of some professionals and to accept as the standard of normal practice a standard that simply is not required. This phenomenon has been observed in the medical profession as a response to malpractice claims.<sup>15</sup>

The problem of the standards to determine incompetence has to be carefully distinguished from the issue of value for money. It is not necessarily incompetence to do work and charge an excessive fee for it. In the eyes of many clients, the fees charged by members of the professions are a substantial ground of complaint, and complaints about the fees that have been charged are frequently made to the governing body of the profession concerned.<sup>16</sup> Any profession may feel that it is under strong pressure to respond to complaints about fees, but such a response has little to do with competence. However, if the standards that are set are unreasonably high then there may be additional pressure by clients in regard to excessive fees. In setting the standards for competence, therefore, the profession has to be aware of the need to set standards that are appropriate in terms of the reasonable expectations of the client and the costs that will be incurred in meeting the standards. These concerns may, of course, result

in a required standard being consciously set at a level less than the highest level of performance. There is, however, no reason to assume that every client wants the best possible job done for him if the costs of doing that are excessive.<sup>17</sup> Of course, the fact that a client may have been misled or had inadequate information about the level of performance that was provided may be evidence of misconduct and, on that basis, a ground for imposition of disciplinary sanctions.

There is one further problem of standard setting that has to be considered. Care must be taken to ensure that the standards that are set do not preclude or discourage innovation unnecessarily. This problem may be less serious for lawyers and accountants and more serious for engineers and architects where technological developments are frequent, but it will be present in any profession. This can be dealt with by the constant review of standards so that obsolete requirements can be removed, or, in appropriate circumstances, by the use of more broadly drafted standards. The issue of innovation may, of course, raise the issue of whether the client was fairly treated or not in the sense that innovation should seldom be permitted at the client's expense without his express consent. In this respect there may be a standard of disclosure to the client that has to be met so that the client may fairly assess the risk that may be present.<sup>18</sup> Examples of such problems may be found in areas

like energy conservation or innovative structural designs. A failure to make the required disclosure may be evidence of misconduct or even incompetence.

The final point is that, if in regard to competence standards, both the narrow definition for purposes of discipline (where that may result in the imposition of very serious sanctions against a professional) and the definition for purposes of imposing civil liability are inappropriate as the only standards that will be applied, some other definition must be found. The key to the applicable standard or definition lies in realizing that the response that a professional body can make to the problem of incompetence covers an extremely broad range. At one end, it can be argued that the standard was so low (or the definition so narrow) that any failure to meet that standard would justify expulsion. At the other end, it may be that the disparity between the expected standard and the standard reached by the professional is so slight that all that is required is a warning or an offer of help to ensure that there is no repetition.

Not only is the range of responses that the profession can make very wide, but also it is unnecessary for any profession in attempting to deal with the problem to do everything at once. All the professions now can deal with conduct that may be regarded as being at one extreme of the spectrum of competence. As a practical matter, a profession may decide that, whatever be the formal standards by which the member's performance is to



be compared, only those cases where there has been a "dramatic" departure from the level of performance of the reasonably competent professional will initially be brought within the ambit of the discipline process. This is, for example, the approach adopted by the College of Physicians and Surgeons of Ontario in setting up its peer review programme.<sup>19</sup> It will also be the case that the actual examples of incompetence that are considered by the discipline process will involve performance that departs "dramatically" from that of the reasonably competent professional. This has been the experience of the I.C.A.O. when investigating the competence of chartered accountants.<sup>20</sup> The adoption by any profession of a more aggressive policy in regard to incompetence has to be approved by the members of the profession as a whole. The governing body of each of the professions is responsible to the members and any significant change in policy has to be one that, in general, has the support of the profession. Such support will be more likely when it is understood that the primary targets of any programme to encourage competence will be those whose performance would be regarded by everyone as inadequate.

It is also the case that the mere setting of a standard has the effect of raising the general level of performance of the profession. This comes about in two ways: first, the reduction to writing of previously imprecise standards of performance makes it clear what is or is not acceptable conduct and informs those who may have forgotten (or been unaware of) what they were supposed

to do; second, the realization on the part of the members of the profession that the professional body intends to apply disciplinary sanctions against those who may be performing inadequately (no matter how far their performance may be below that of the vast bulk of the profession) forces those who may be worried about their performance to have regard to their performance and the standards that may be applied to them. In other words, no one can afford to sail too close to the line of inadequate or incompetent performance if it is seen that there is a real risk of being disciplined for incompetence. Once there is general agreement in the profession on the control of incompetence then additional steps can be taken to raise further the expected level of performance.

The range of standards that are now found in the four professions provide useful examples of what can be done in the way of setting standards. The standards for accounting practice applied by the I.C.A.O. are supported by the standard-setting activities of the C.I.C.A. in the latter's Handbook. Here may be found not only examples of what generally accepted standards of accounting practice are, but also examples of how an accountant should conduct relations with a client. This kind of publication can be supplemented by periodical information from professional journals. The O.A.A. is currently preparing an "Outline of Service" as a means of setting out generally accepted standards of architectural practice.<sup>21</sup> The A.P.E.O. is considering the adoption of a manual of professional practice to be modelled after the Code of Professional Conduct of

the Canadian Bar Association.<sup>22</sup> The A.P.E.O. also plans to publish details of the cases that are considered by the Practice and Ethics Committee in the same way as the Law Society now publishes details of cases before the Discipline Committee and Convocation.<sup>23</sup> This kind of information on the standards being applied by the disciplinary bodies of the professions involves standard setting in that it shows where the line separating competent from incompetent performance was drawn in individual cases. It is, of course, perfectly valid and acceptable to add this dimension to the development of standards of performance, and, of course, a system of law can develop from a case by case analysis. The standards applied in one case can become guides for the standards to be applied in others. There will be areas of practice where it may be the only easy method of setting any standard, just as there will be areas where it may be preferable to do something else such as, for example, the manuals of practice that have been referred to.

The task of developing a comprehensive manual of practice of the size and scope of the C.I.C.A. Handbook or the O.A.A. "Outline of Service" is obviously difficult and expensive. It is, however, quite possible to adopt very simple rules that can do a surprising amount to raise the level of practice in a profession. One example from a recent move by the Law Society can be cited to show what is possible in this regard. The Law Society will shortly require every lawyer who searches a title to keep a record of the search.<sup>24</sup>

Any lawyer who searches a title will realize that he must now have a record of what has been done in the search. There will, therefore, be strong encouragement to ensure that what is done will be regarded as at the level of performance generally expected in the profession in conducting a search of title. It may be expected that this kind of ruling will reduce incompetence in this particular area of practice. In a similar way, the provisions of The Building Code Act, 1974,<sup>25</sup> while not regulations of either the A.P.E.O. or O.A.A., by providing for the inspection of drawings, plans and specifications accompanying applications for building or demolition permits, allows a review of the work that has been done by an engineer or architect and thus provides an indirect incentive to competent work. An equally simple standard to define would be the requirement of disclosure to the client that has been mentioned in regard to the risks that might be run by the client should an innovation in design be adopted.<sup>26</sup>

The problem of standard setting, as has been mentioned, is complicated by the need to set reasonable and workable standards, and standards that do not discourage innovation necessarily. Some care has to be given to the process by which these standards are set to ensure that the views of the profession as a whole are considered. It may be the case, for example, that within a profession there are different views on what is an acceptable level of performance in any particular area of practice. It is essential that any such differences are accommodated at the standard-setting stage rather than at the application stage. This follows from



the need for standards that indicate in advance what level of performance will be required. It is not possible here to say how any profession should respond to this factor. It may be that the political composition of the profession's governing body (or appropriate committee) is adequate to ensure that all relevant views within the profession are considered. On the other hand, it should not be assumed that this is inevitably going to be so. A failure to ensure that the standards that are set are widely accepted in the profession will make the job of using those standards to ensure competence more difficult.

The fact is that all the professions have taken some steps towards setting standards for competent work. The kind of standards that can be set in any profession will depend on what is felt by that profession to be both necessary and desirable. Even where there may be no comprehensive statement of these standards as in the C.I.C.A. Handbook, it is not difficult to set some standards. As has been argued, the mere setting of a standard can have a significant impact on competence. However, while the setting of a standard or standards is a necessary step in controlling incompetence, it is only a first step. As important is the actual application of the standards that have been set in situations when incompetence is alleged to have occurred. The issue of the application of these standards in the discipline process has already been discussed by Professor Reiter. This paper will discuss what can be done under the general heading of continuing education and, in section 5, what,

specifically, can be done to ensure that examples of incompetent work are brought to light.

It has been argued that standard setting is not always as difficult as it seems, and that the first steps are often easy. It is, however, not argued that the setting of standards is always easy. It is more likely the case that the job will be difficult and that it will require a large investment by the profession as a whole. Even in individual cases there will be frequently great difficulty in determining what the applicable standard might be. But to admit this is only to recognize that the maintenance of competence in a profession is seldom going to be an easy job and that the regulation of any profession is a complex and demanding task.

### 3. The Range of, and the Factors that Influence, Continuing Education Programmes

There is a wide variety in the kinds of things that can be included in the general heading of continuing education. Before discussing the most effective methods, it will be convenient to survey briefly the range that is available:

1. The publication of materials (in both printed and audio or audio-visual forms) that bring to the attention of members new developments or that review basic skills. These materials can be published either by the professional body or by commercial publishers.
2. The running of courses that are designed to help members keep abreast of current developments or review the basic skills required in the profession.
3. Self-evaluation methods that help the professional to know when he or she is performing inadequately so that steps can be taken to improve.
4. Peer review programmes that can fulfil the same function.
5. Professional practice advisory services.
6. Participation in the process of standard setting.
7. Exposure to the good examples of others through some form of supervised practice.

Every professional body assumes directly or indirectly a role in providing some means for the members of that profession to keep up to date.<sup>27</sup> The kind of facilities provided will be influenced by the number of members in the profession, their geographical

dispersion, by the amount of money the profession is prepared to spend, and what is felt to be necessary. What facilities are best suited to the members of any profession can most appropriately be determined by the professional body itself.

The publication of materials and the running of courses are the traditional methods for keeping people informed of new developments. Their effectiveness will depend on a wide variety of factors that are related to their quality, cost, both direct and indirect (income foregone), and availability. Again, each profession will be the best judge of these matters.

It may be assumed for the moment here that whatever educational material is produced by the profession will be of a standard high enough to justify whatever time is spent in studying it. So long as any form of continuing education is voluntary, the problem of quality is probably unimportant. People who want to be educated will not waste their time with inferior material. Thus there is pressure on both the professional body itself and on any commercial publisher to produce material that is of "saleable quality". It should be noted that the problem of the quality of material becomes much more important once the profession takes steps to make any form of continuing education compulsory. Then the issue of accreditation of course and materials has to be dealt with. This will be considered later in this paper.<sup>28</sup>

Of much more importance in the long run is the issue of motivation. Any educational programme has to be assessed in terms of its educational effectiveness. There are important



issues of the effectiveness of certain kinds of programmes as adult education. What kind of programme is most useful or most efficient is an issue where experts in adult education could usefully be consulted.<sup>29</sup> At the moment, the general programme of continuing education offered by each of the professions is voluntary. This may be presumed to mean that only those who are motivated to learn will do so. Consideration will be given later in this paper to the issue of compulsory continuing education. At that time, more attention will be paid to the existence of factors in each profession that do supply motivation for a professional to remain competent and whether or not there is a group within the profession who need any further encouragement to remain competent.

None of the professions being studied offers any system of self-evaluation on a formal basis. The purposes of such a programme should include not only the identification of weaknesses or inadequate performance, but also information on the kind of courses or other sources of information that would be useful in dealing with the deficiency. Such a programme could operate in the following way. A member would be offered a series of questions on some aspect of practice and would be expected to answer the questions as a form of evaluation. The answers could be evaluated either by the member himself or by some other member of the profession. The evaluation could spot inadequacies and at the same time suggest the steps that

could be taken to remedy them. There are programmes of this sort in operation in the United States in the medical profession. There some programmes use computers that offer to the doctor a problem in, for example, diagnosis. The computer can evaluate the doctor's response and, if serious errors are made in diagnosis or in the treatment prescribed, sources of further information can be given. Such methods are, of course, very expensive to put into operation and, where, for example, computer hardware is not readily available to the professional, prohibitively expensive. There are, however, other methods which are not necessarily as expensive. Again, the determination of what method would be most appropriate in any particular situation would have to be left to the judgment of the profession itself. Any method to be effective would have to offer both immediate or, at least, very prompt feedback so that the impact of the evaluation is not diluted, and offer the professional information on facilities for improvement.

Any process of peer review as a method of evaluation has the same features. The review of the members' work must be followed by prompt feedback and information on how to remedy the defects that have been discovered. Peer review and any system of self-evaluation as a means of providing a member with the chance to find out how he is performing should be distinguished from the use of the same devices in any programme designed to uncover for purposes of discipline those who are practising at an inadequate level. The features of any examination or peer review

system in such a context will be examined later in this paper. The significance of the distinction lies in the fact that where these methods are used for educational purposes then these purposes must be furthered, even if this should mean that, for example, incompetence is not as effectively controlled as it might be. Evaluation is an educational tool, and not part of the disciplinary process.

A practice advisory service offers a method of helping members of a profession to offer competent service but does not have any explicit evaluative function. The educational value of such a service lies in the fact that a member has access to expert advice that can be precisely fitted to the problem he faces. Its value will be enhanced if the response can be provided quickly and if the member can be told of other sources of information.

The success of any of the last three methods depends entirely on the use made of them. Insofar as these methods are methods of continuing education and not aspects of any process even remotely connected with discipline their educational effectiveness depends on the fact that members are prepared to use them on a voluntary basis. Great care must be taken that any method that depends on the voluntary actions of the members of the profession is set up to encourage such action.

For example, the Law Society has recently accepted in principle a report on professional competence that suggested setting up such a service.<sup>30</sup> The expectation is that such a committee would offer

advice to those members who asked for it. Obviously, the success of such a scheme will depend entirely on the use that is made of it. Since the scheme depends on requests for help, it must follow that there can be no overlap between it and the discipline process. If the asking of advice from the service triggers (or is even believed to trigger) concern for that member's competence by the professional body then no one is likely to make a request. Care must be taken to ensure that the discipline arm of the professional body does not have access to the records of requests for assistance or to the instances of advice given. It should not be possible, for example, for the tribunal in any discipline proceeding to have evidence of any request for assistance or to know whether the advice was taken or not, unless the professional who has been charged chooses to raise the issue. Once this clear separation has been made, then the professional advisory service can operate as a resource for those members of the profession who feel that they need help. The service can, of course, warn a member that a proposed response to a client's problem may be inappropriate and it may be expected that the warning would be heeded.

If it is argued that the professional advisory service is, or could be, a useful source of information on incompetence for disciplinary purposes the answer is that to use such a service for such a purpose would be self-defeating. No one is likely to ask for help if, by so doing, he or she is regarded as incompetent



and there is any risk that incompetence so identified will be reported to the professional body and become the basis for the application of disciplinary sanctions.

Of course, the fact that a member failed to make use of a practice advisory service may be an additional factor supporting a charge of incompetence. Conversely, a member who made use of a practice advisory service and who is subsequently charged with incompetence, must be free to argue that what he did was done on the advice of the service. A "finding" that the member was incompetent in that situation would indicate that the practice advisory service was scarcely doing its job, and it would be unfair to take any steps to sanction the member or even to record a finding of incompetence.

Exactly the same arguments are applicable in the other situations. If the results of any kind of evaluation, where that has been undertaken at the request of the professional, are made the basis for any discipline complaint, then no one would be likely to volunteer to be reviewed. The concern that the continuing education and discipline functions be kept completely separate justifies the professional body in going to extraordinary lengths to ensure that no information of any kind (except of course with the consent of the professional) relating to the educational process be available to the discipline process. This concern should, for example, lead to the disqualification of any person as a member of any discipline committee who has any knowledge of any voluntary evaluation or request for assistance.

#### 4. The Relation Between Continuing Education and the Discipline Process

It has been mentioned that there are two aspects to continuing education. The first was the use of continuing education in maintaining the continued competence of the members of the profession generally. The second was the use of continuing education as part of the discipline process. In regard to the first of these there are two kinds of continuing education. The first is the provision of opportunities for the members of the profession to learn. These opportunities could be provided by means of publications, lectures, seminars, video and audio-tapes and the usual methods of making knowledge available. The second is the use of continuing education as part of a mandatory scheme to ensure competence. Here a member's licence to practise could be limited in point of time and the right to a renewal of the licence could be conditional on the satisfactory completion of some form of continuing education. This could include the passing of exams, attendance at courses or some combination. In this respect continuing education becomes part of the licensing function of the profession. The discussion of the second aspect of continuing education, i.e., as an aspect of the discipline process, picks up some suggestions that have been made by Professor Reiter and considers the role of continuing education as one of a range of sanctions in the discipline process.

It is not possible to separate completely the two aspects of continuing education. In general, the first aspect --the maintenance of the competence of members of a profession generally--

focusses on the large scale problem. The second focusses on the individual and seeks to ensure that the individual who has been singled out for special attention by reason of conviction through the discipline process on a charge of incompetence or by a less formal finding that incompetent work was done has an opportunity to improve. Obviously, if the first aspect is properly done, there will be fewer cases of individuals who need special attention. Similarly, the pattern of incompetence that the discipline process discloses through the individual cases that come before it would be a useful input into the design of programmes of continuing education for the profession as a whole, and this, in turn, could have an effect on the competence of members generally. This part of the paper will briefly explore some aspects of the inter-relationship between these two aspects of continuing education. Further problems associated with the second aspect will be discussed in the next section. The general problems of the first aspect will be examined in the section following that.

The existing facilities for continuing education that are offered by the professions are, in general, quite independent of the discipline process. The Professional Conduct Committee of the I.C.A.O. used to employ continuing education as a "sentence" in its discipline process and in this sense, continuing education was part of the discipline process. This sanction is now only available to the Discipline Committee and is attached to a sentence of suspension. Thus a chartered accountant may be suspended from practice for a

period of time and allowed to resume practice when he has taken certain courses or passed certain examinations.<sup>31</sup> So long, however, as incompetence is seen generally as of no concern to a profession unless it is so serious as to amount to misconduct, and so long as a profession's programme of continuing education is offered only to those who choose to take advantage of it, then two consequences follow. The first is that the principal method for controlling incompetence is the immediate threat of expulsion, suspension or, possibly, public reprimand. The second is that the continuing educational programme is not designed to help control incompetence directly.

Insofar as any members of the profession take advantage of any programme of continuing education, that programme is helping those members to maintain their competence. It is, however, likely that those who do take this advantage are those who, were the facilities not available, would still make an effort to perform competently. If continuing education is to be used as an effective tool to ensure competence throughout the profession then it must be used as part of the discipline process. This simply means that continuing education can be used as a "sentence" in the discipline process. At the same time of course the threat that repeated examples of incompetent performance will lead to expulsion will offer the professional who is performing inadequately the incentive to take continuing education seriously.

As has been suggested in discussing the issue of the standards of competence that are applicable, the formal disciplinary process



will normally require that a pattern of incompetence be shown. This will require then that a very narrow definition of incompetence be adopted for this purpose. One would expect, therefore, that in most cases where a pattern of incompetence was shown, there would have been an opportunity for the professional body to have taken steps to bring home to the member the fact that he was performing at an inadequate level. One would, for example, expect exactly the same kind of response from an employer who was concerned about the incompetence of an employee. A good personnel policy would offer an employee who was not performing adequately at least a warning that his work was inadequate and an opportunity for improvement. It would therefore be unreasonable not to have different standards for different purposes. As the discussion in section 2 of this paper has shown, such a difference is maintainable.

In practice, of course, the sanctions that are available are far wider than either expulsion or continuing education. Professor Reiter, for example, lists the following:<sup>32</sup>

1. Expel the professional;
2. Suspend the professional from practice generally or from some field of practice;
3. Suspend the professional from practice generally or from some field of practice
  - (a) until a specified course of studies has been completed;
  - or
  - (b) until the professional has satisfied a board of

examiners of his or her competence generally or  
in a specified field of practice;

4. Accept the professional's undertaking to limit his or her practice in lieu of suspension;
5. Impose conditions on the professional's ability to practice generally or in any field (including conditions of not engaging in sole practice, requiring period inspections by the agency or its delegate, or reporting to the agency on matters specified);
6. Direct the professional to pass a particular course, or satisfy a Board of Examiners of competence in practice generally or in a particular field within a specified time, or be suspended;
7. Satisfy a Board that physical handicaps, mental handicaps or problems caused by drugs or alcohol have been overcome (with suspension in aid);
8. Order the professional to be reprimanded, admonished or counselled;
9. Revoke specialty or other competence designations (either temporarily or permanently);
10. Make such other or ancillary orders as may be appropriate or requisite.

Several of these sanctions involve continuing education. The most obvious is the restriction on the rights of the member to practice imposed until the member has taken steps to improve or demonstrate his or her competence. The whole range must, therefore, be kept in mind in discussing the role of continuing education.

If the profession does maintain any programme of continuing education then decisions have to be made on the substance of what is taught and how it is to be taught. To take an example of how this issue is important, it might be that a particular area of practice was over-represented in client complaints of inadequate performance. If continuing education is to be effective it will have to respond by offering courses that seek to remedy the particular defect. Similarly, if the reason for inadequate performance was sloppy supervision of subordinates, courses in office management and organization might be required. The profession, must, therefore, have a good idea of where there are problems of incompetence and what these are so that steps can be taken to deal with the deficiency. Whatever steps a profession decides to take to uncover and respond to incompetence must be determined by a wide base of knowledge of what are the particular problems that that profession has. Knowledge of the areas where members of the profession are performing inadequately can, for example, be supplied by the insurance carrier. The loss control and professional development programmes of the National Programme Administrator of the insurance scheme provided for architects and engineers are designed to remedy the inadequacies in professional performance

that cause losses under the insurance scheme. The Law Society has recently used information from the insurance carrier in determining to take steps to improve the level of performance of certain members.<sup>33</sup> Information on what programmes should be provided for the profession can also be supplied by an analysis of both the discipline and civil liability processes. Where there are patterns of complaints from clients or where any other source indicates that certain classes of professionals within a profession are performing inadequately, remedial programmes with specific aims can be designed.

The concern for what is made the subject of continuing education is justified to make sure that the resources that are put into it are effectively used. The same argument can indicate that some topics may be omitted entirely. For example, it is clear that in all the professions incompetence is more of a problem with the small firm or individual practitioner than with the large firm. An aspect of practice in any profession that is virtually the exclusive preserve of the large firm will typically be handled by professionals whose competence will be assured by their firm. It may be the case, for example, that the auditing of the components of large multinational firms is an auditing function that is exclusively the work of large, highly organized, international accounting firms. Such firms are likely to organize the work of auditing and to assign members to do the work so that the client can be assured that an adequate level of performance is reached. Examples of

incompetence may be more the result of inadequate supervision of subordinates than the lack of knowledge on the part of the members of the firm. This would indicate that courses in office management and control rather than in substantive areas of accounting practice would be useful.

It is, of course, up to the professional body itself to determine what should be the subject of any continuing education programmes. It is important that the investment in continuing education be organized to yield the greatest return. To do this requires knowledge of the principal areas of inadequate performance. The next section of this paper will discuss further the ways in which this can be obtained.



## 5. Methods of Discovering When Individual Members of a Profession Are Incompetent

If a profession is to perform efficiently the job of policing the competence of its members, then it has to consider the adoption of methods for discovering which of its members have been or are incompetent. This section of the paper will be divided into three parts. The first part will discuss sources of information about individual members of the profession who may be incompetent that are already available in each of the professions. The second part will be a discussion of the constraints on the use of these methods. The third part will discuss sources that are now used in some professions but not in all and which may avoid some of the problems of the more widely available methods. To a certain extent, the methods that are now available are those that rely on someone outside the profession to take steps to bring the matter to the attention of the profession, while those that are not now so widely used are those that require the profession to seek out those who are incompetent. For the sake of brevity the first part will refer to the methods that are widely available as "existing methods" and the third part will refer to the other methods as "proposed methods", though neither heading is entirely accurate as applied to the professions under review.

## A. Existing Methods

### (i) Liability

It has already been suggested<sup>34</sup> that the finding that a member of a profession has been held to be civilly liable provides grounds for the profession to consider that member's competence. Of course, the investigation of the member's competence that is undertaken by the profession as a result of the finding of civil liability may not indicate that the member's performance was inadequate. The important fact is that an event occurred which drew the attention of the professional body to the person who was sued.

### (ii) Disciplinary Proceedings

The existing methods adopted in each profession in respect of the discipline process perform the same function. Client complaints, complaints from other members or from any one else that have resulted in disciplinary proceedings against members will draw the attention of the profession to examples of performance that may be inadequate.

### (iii) External Review

Certain aspects of the work done by members of any of the professions may have an inherent external review process.<sup>35</sup> For example, the tax accountant or tax lawyer who is performing at an inadequate level will soon have his or her failings pointed

out when clients' tax schemes are rejected by the Department of National Revenue. Similarly the incompetence may result in very obvious evidence of a professional's inadequate performance: the roof or the bridge that collapses will be dramatic evidence that the work done by an engineer or architect was inadequate. There will be other examples where the evidence of incompetent work will be clear. The client whose solicitor misses a limitation period is unlikely to be unaware of the fact or of the lawyer's responsibility for it. The same is to some extent true in cases where defects in title show up after a client has purchased real estate, or where work done by an engineer is checked by a building inspector.

In some professions a significant number of members practise as employees rather than as independent professionals.<sup>36</sup> An employer's assessment of the work of an employee may be regarded as an external review of that member's work. An employer may have to dismiss an employee for incompetence as a professional and the questions for the professional body, therefore, are whether the fact that a member has been dismissed should (or must) be brought to the attention of the professional body or not, and what should be done about the right of the member to go into private practice. It may be the case, of course, first, that the employer may not be a member of the profession and so would not be subject to the control of the professional body and, secondly, that the grounds for dismissal may not say very

much about the member's qualifications for practice. The engineer who is dismissed because he is performing inadequately as sales manager of a firm of consulting engineers may be perfectly qualified to practise in the field of his original qualification. It would also be likely that an employer would be most unwilling to reduce the former employee's chances of finding another job. There are two obvious reasons for this. The first is that, should the employee successfully maintain an action for damages for wrongful dismissal, the damages the employer may have to pay might be enhanced, at least by the additional time taken by the employee to get another job, and, at worst, by the fact that the employer cast unjustified aspersions on the member's professional capacity. The second reason is simply the feeling that any further "penalty" beyond the loss of the job, would be unfair.

There is no easy solution to this problem beyond treating the work of an employee in the same way as that of any other member of the profession. The fact that a member is an employee does not insulate that member from either civil liability or the normal disciplinary process. An analysis of the activities of the Practice and Ethics Committee of the A.P.E.O. shows that a significant number of employed engineers have been brought before the committee.<sup>37</sup> In addition, of course, the employed professional has a very direct incentive to remain competent: incompetence may cost him his job. The difficulties in the way of making use of the employer's decision as input into the disciplinary process are so great, and the return is likely to be

so small, that it is probably not worth the profession's efforts to obtain this kind of additional information on those who may be incompetent.

(iv) The Insurance Carrier

By far the most efficient indicator of incompetence in most of the professions at the moment is the experience of the insurance carrier. As has been discussed in this paper<sup>38</sup> and by Professor Belobaba,<sup>39</sup> the information provided by the National Programme Administrator of the insurance scheme provided for engineers and architects is a useful source of general knowledge about the kinds of losses and the areas where incompetence may be particularly common. The value of this kind of source is subject to two limitations. The first is the fact that insurance is voluntary in some of the professions and may therefore not provide a wholly accurate picture of the standard of practice in the profession. The second limitation is that, while such a source could also indicate those individuals who might be performing at an inadequate level, it is not always possible for the profession to obtain the names of those whose performance gives rise to claims against the insurance carrier.<sup>40</sup> It would be a simple matter, where the profession has access to the insurance information, to examine the competence of those members who have made claims on their insurance cover.



## B. Constraints on the Effectiveness of the Existing Methods

### (i) Civil Liability and Discipline

Insofar as both of these methods depend on client initiation there are major difficulties in seeing these methods as adequate to bring all cases of incompetence to the attention of the profession. It has been argued in the papers by Professors Reiter and Belobaba that reliance on client complaints alone is unlikely to ensure that all the examples of incompetence that might occur are, in fact, dealt with either by the discipline process or by the courts in actions based on professional negligence.<sup>41</sup> The reasons why client complaints are an inadequate source of information is due to the inability of clients to know when they have received incompetent advice or work and the various factors that discourage clients from bringing evidence of incompetence to the notice of the profession. In addition, especially in the case of those clients who are aware of the fact that they obtained an inadequate level of performance, there are further factors that decrease the utility of this source of information to the profession. The large business client who is best able to identify incompetent work, will frequently switch firms rather than take any other steps that might bring the fact of incompetence to the notice of the profession. Conversely, the individual client is more likely to complain or bring an action for damages. But this is, of course, a relatively inefficient way to discover incompetence.<sup>42</sup>

It should also be noted that the large business client may be better protected from incompetence. Where the pattern of practice of the profession is subject to market forces and results, for example, in competition between firms (as happens in both the architectural and engineering professions) in respect of price or any other aspect of the service performed for the client, any firm will have a very strong incentive to perform at an adequate level. A reputation for sloppy work or a pattern of client complaints will, sooner or later, result in a firm's losing clients to other firms who have better reputations. The factors where this occurs in any profession have been discussed in the paper by Professor Dewees and others.<sup>43</sup>

At the same time, the large business client may be better able to obtain a settlement of any grievance against a professional than would an individual. This would be one further factor that would reduce the number of complaints to the professional body or to the courts.<sup>44</sup>

The analysis of discipline complaints shows that the larger firms in each profession tend to perform at a higher level than the small firms. This is, presumably, in part because of the competitive forces that have been mentioned. However, it is also due to the fact that large firms are likely to have their own internal control of competence. A large international accounting or engineering firm may have great concern that the work done by any one part of the firm is of a standard that is both uniform across all the components of the firm and

of a sufficiently high standard to meet the needs of sophisticated clients. The importance of uniform standards may justify frequent assessments of the capabilities of all the members of the firm and extensive in-house programmes of training and monitoring for firm members.<sup>45</sup>

It has been mentioned that the client may be unable to identify cases where he has been the victim of incompetent work. There are cases where the client will obviously know this: his building collapses or he is ordered to demolish it as being unsafe. But there are areas of practice where it is particularly the case that the client has little or no opportunity to know that there has been incompetent work, or where the client may not find this out for a very long time. For example, the lawyer who does a sloppy job of drafting a will may not have his sloppiness brought to light for many years. By such time, the lawyer may have drafted hundreds of defective wills and the cumulative effect of this kind of incompetence may be staggering. Similarly, it may be many years before the effects of bad design in the construction of a building are apparent.<sup>46</sup> There are, of course, problems not only for the client in such a case. The member who is charged with incompetence may find it hard to reconstruct the facts of the case and to argue that he was competent. The existence of insurance may, of course, lessen the financial impact of the professional's incompetence, but that may not adequately compensate for the trouble and stress that the client or others may have undergone. It may also be the fact that for reasons discussed by Professor Belobaba<sup>47</sup> those

who are harmed by the professional's negligence may have no cause of action, and may, therefore, have no access to any insurance fund that there might be .

(ii) External Review

It may be assumed that members of any profession will be more concerned to be careful to do competent work when the chances of being found out are high. But the major problem from the point of view of the profession and its concerns for the competence of its members will be that there is no certainty that the information on incompetence that the client may possess will be passed on to the appropriate professional body. It does not follow that just because the Department of National Revenue rejects a proposed scheme to reduce a taxpayer's taxes and that there may be evidence of incompetence that the professional body will hear of it.<sup>48</sup> At the moment, it is unlikely that the Department will inform the Law Society or the I.C.A.O. or P.A.C. and the client may be more likely to change lawyers or accountants than to make a complaint to either professional body.

(iii) The Insurance Carrier

The constraints on the use of this source of information are in many respects similar to those applicable in the case of the civil action. Any claim made against the professional must be made by a client who has to believe that the professional

is liable for what happened. There may be, as has just been mentioned, cases where the client is likely to know this, but there will also be cases where the client will not. A client, for example, may not know that he lost his case because his lawyer failed to do adequate research into the law before arguing his case, or because his lawyer failed to get important and relevant information before the court. Similarly, a client may not know that the costs of a building he wanted were higher than they might have been because his architect ignored recent developments in materials technology. There will be examples of similar situations in the other professions as well.<sup>49</sup> In an important sense, also, information from the insurance carrier may be out of date. As the examples of the defectively drafted will and the badly designed building show, there may be a long time lag between the performance by the professional and the discovery of its inadequacy. Again, as Professor Belobaba has pointed out<sup>50</sup> the existing rules regarding the time within which an action must be brought will eliminate some claims that could clearly indicate incompetence.

### C. Proposed Methods

All the methods of discovering the incompetent professional that have been discussed have, therefore, certain limitations. If incompetence is to be effectively controlled then the existing methods must be supplemented by other means. Some



of these other methods are already in use and their effectiveness can be assessed. There are still other methods that might be tried and their effectiveness, or likely effectiveness, may be discussed.

(i) Reporting By Members of the Profession

The requirement that all members of a profession have an obligation to bring to the attention of the professional body any instance of incompetence could be imposed. The ICAO now requires that any accountant who comes across incompetent work performed by another accountant must report this to the Professional Conduct Committee of the I.C.A.O.<sup>51</sup> Professor Reiter has discussed the effectiveness of this method for the purposes of discipline, and has included that it is effective, judged simply by the high conviction rate of those brought to the attention of the committee in this way.<sup>52</sup> It may be expected that it would be as effective in the wider area of the control of incompetence generally. It might be assumed that, with the broadening of the basis for the concern of the professional body with incompetence, and with the possibility of less serious sanctions being applied to the member, the use of such a method of discovering incompetence would increase, since a member who reported another might not have to worry about the fact that the latter would necessarily face very serious consequences if found to be incompetent.

(ii) Complaints from Officials

It has been mentioned that the assessment of the work done by some professionals by officials of one kind or another may serve to bring evidence of incompetence to the attention of the client.<sup>53</sup> The same sources could provide a useful input in any programme of control undertaken by any professional body. Professor Reiter has again discussed the utility of this kind of input into the discipline process.<sup>54</sup> The same points can be made here as were made in connection with the previous point: the method is not now widely used, though it could be used more widely if each profession took a broader view of the problems of competence, and, in particular, if those officials felt themselves to be under an obligation to make such reports. It is likely to be the case that the reviewing official will be, or have been, a member of the same profession as the member. Judges and Masters were or are lawyers. Officials of the Department of National Revenue are often chartered accountants. Those who have occasion to supervise the work of engineers or architects may themselves be members of the A.P.E.O. or O.A.A.

(iii) Peer Review

Some system of peer review seems likely to offer the most effective method for discovering incompetence. There are several kinds of peer review and it is necessary to be precise in analysing the methods by which it can operate and the factors that will influence its success.

Peer review has already been mentioned as one form of continuing education.<sup>55</sup> There it was assumed that the professional would request a review for the purposes of evaluation and improvement. As a method for discovering incompetence so that the professional body could make an official response, this method was quite inappropriate. It was argued, in fact, that if any voluntary system was to work at all there had to be a complete separation of the educational function from the discipline function.

Here, however, we are concerned with peer review as a part of the discipline process in the sense that, ultimately, the determination that a professional is incompetent can lead to expulsion from the profession. Peer review in this sense is not voluntary. It may seem trite to observe that peer review involves the review of a professional's work by his or her peers. But this fact is of crucial importance. It has been accepted throughout the paper that the only body qualified to determine competence is the professional body itself and when a professional's work is to be evaluated that must be undertaken by those who are qualified to judge its quality. An effective programme of peer review, then, represents the determination of the profession to police its own members and to demonstrate their competence to the public, to whom, after all, the profession is ultimately accountable.

As a symbol of this determination, peer review has an important role in maintaining competence and public confidence

in the competence of a profession. The essence of peer review is that the profession is actively reviewing the work done by its members. All the other methods of determining who within the profession are or might be incompetent depend on some person (usually a client, sometimes another professional) taking steps to bring certain facts before the professional body. Any method that depends on this kind of detection has, as has been stated, serious inadequacies.

The first question that has to be determined in any programme of peer review is, what shall trigger the review? In other words, why is a particular member of the profession chosen for review? In determining how to select the member to be reviewed, there are a number of factors to be considered:

- a) The cost of any review programme. The greater the number of members reviewed, the higher the cost of the programme. This is a cost that the profession as a whole must bear.
- b) The need for as complete information as possible on the patterns of competence (or incompetence) in the profession.
- c) The need for the programme to discourage incompetence by making the risk of any incompetent work being discovered high enough to deter it.

When these factors are made the basis for any programme, then the programme will have the following features:

a) A relatively small percentage of the total membership of the profession will be reviewed in any one year. The proportion might vary from 5% to 10% of the total membership.

b) Those whose competence has been questioned and been brought to the attention of the professional body by any of the methods that have already been discussed in this or the preceding section of this paper, and where there may not be sufficient information to dispose of any resulting charge of incompetence through the disciplinary process, would normally be reviewed as a matter of routine.<sup>56</sup> It may be expected that, even though the member may have been exonerated by, for example, the courts when sued for negligence, this would not necessarily prevent a review under the peer review programme.

c) The pattern of incompetence generally disclosed by any of the methods that have been discussed would be used to identify areas of practice where the risk of incompetence is higher than in the profession as a whole. It is already known, for example, that the risk of incompetence varies indirectly with the size of the firm. It is known that in some professions there is a higher than average risk of incompetence in certain areas of practice. Similarly, it is known that the professional practising in "isolation" is a high risk category.<sup>57</sup> It would be expected, therefore, that the profession would devote a significant proportion of



the resources of its peer review programme to the areas of high-risk practice. It may be the case that, while the total proportion of the profession reviewed would indicate that any individual member would be reviewed once every 10-20 years, those practising in high-risk areas might be reviewed every five years or even less. Those members practising in high-risk areas who would be selected for review would be chosen randomly. This would be necessary to ensure that the peer review programme had its maximum deterrent effect on incompetence and to provide the most useful overall picture of the level of work being performed in that area. Conversely, there may be low-risk areas of practice where there are already built-in safeguards against significant incompetence. Such might be the case with the employed professional. It might then be considered that it would be unnecessary to devote any of the resources of the programme to review the work of the employed professional. The only body that can judge this is the profession itself.

d) The profession should also devote something more than an insignificant amount of resources to a general sampling of practices other than those in the high-risk areas. This would be necessary to ensure that there was adequate knowledge of the overall level of performance in the profession so that, areas of practice which, for reasons that have been discussed, are likely to be under-represented by the existing methods of discovering incompetence, can be reviewed. It is, of course, likely to be the case that the amount of the resources of the peer review programme that can be devoted to

this part of the programme will be small. It should be noted, however, that if the programme is successful so that the level of performance in those areas that are now identified as high-risk areas, is raised, the proportion of the resources that can be devoted to the universal sample can be increased.

The balance between these features of the programme must be determined by each profession. Each profession must identify those areas that are high-risk areas and those where there may be no, or only little, need to review the performance of members. It must decide both the total amount to be devoted to the programme and how the programme should be changed from year to year as the patterns of incompetence in the profession change.

In the discussion of the features and problems of a peer review programme that follows it will be assumed that the decision to review a member has been made as a result of one of the methods of selecting the member that have just been mentioned.

There are a number of specific problems that arise with any programme of peer review. First, there must be something to be reviewed. This means that all the members of a profession must keep certain records. There is no reason, in principle, why a review could not be made of work as it is being done. The actual performance is then the record. For practical reasons, this kind of review is likely to be seldom done--at least until peer review is a well-accepted method in all the professions. It may be assumed that the complete absence of records may be evidence of incompetence, but the profession has to give some consideration

to requiring that certain specified records be kept. The Law Society has for a long time had stringent rules regarding the accounts that each lawyer must keep so as to ensure that money held on trust for clients is not improperly spent, and it is grounds for disciplinary action for a lawyer to fail to keep the required accounts and records whether or not he or she has been scrupulously careful with client's money. In a very recent move, the governing body of the Law Society, Convocation, has requested the Professional Conduct Committee to amend its Rules to make it mandatory for lawyers to keep certain specified kinds of records.<sup>58</sup> It is noteworthy

that this request was made in response to perceived problems of incompetence that were disclosed through an analysis of the loss experience of the insurance fund. It will, in future, therefore, be grounds for discipline that a lawyer has not kept the required records. The existence of such records permit an effective review of a lawyer's practice to determine if he has performed adequately, or at least in a way that minimizes the chances of his being liable for a particular kind of civil liability claim.

The second important fact is, of course, that there be accepted standards for review. The standards must be such that a professional will know in advance what must be done and there must be a shared opinion in the profession that certain levels of performance are inadequate. This point has already been mentioned in this paper, and is simply an aspect of the general problem of standards. It

must be remembered that there is no reason why the standard applied on the review has to be that that may have been relevant if the review was triggered by a finding of liability in a civil action for damages. A peer review process may disclose evidence of such grave incompetence that the result is an immediate decision by the appropriate committee to expel the member. But it is also possible (and more probable) that the review will only disclose some minor shortcomings that can be remedied by advice or by information. The important point is that standards must be set. The setting of a standard provides a criterion for assessing the member's performance, and the degree to which the member fell short of the required standard determines the severity of the sentence.

One way in which this problem can be dealt with is by starting modestly. For example, the College of Physicians and Surgeons of Ontario has recently adopted a peer review programme. The programme is, at the moment, in its preliminary stages, and at this point those who are reviewed have been chosen by the College and have consented to the review, so that none of the issues in the selection of those for review that have been mentioned or raised. However, the programme is designed to meet both of the points that have been mentioned. First, the records that are reviewed are those that the physician is required to maintain under the Regulations made under The Health Disciplines Act. Second, the purpose of the review is "to identify physicians who are practising at an unacceptable level in general or in specific areas." The

standard of what is unacceptable is described as follows: "To be labelled as unacceptable, there would need to be examples of a performance that was dangerous or harmful, useless or neglectful."<sup>59</sup>

The adoption of this standard may be regarded as equivalent to that mentioned in s. 2 of this paper<sup>60</sup> that the work performed was of a standard that departed "dramatically" from that of the reasonably competent professional. If such a standard is set then the standard may be regarded as that of minimally acceptable work. The advantage of setting such a standard is that there would be, presumably, nearly unanimous agreement in the profession that work below that standard was inadequate.

A practical response to the problem of setting the initial standards for peer review might be to set the standard low so that there is general agreement in the profession that at least work below that standard is inadequate. The fact that any kind of review is undertaken on the basis of that standard, will, however, inevitably lead to a raising of the standards of practice over a period of time. In other words, merely setting the standard and taking steps to see that it is met by all professionals provides inevitable pressure on the members of the profession to perform better. For example, if a peer review process of a particular professional's practice should disclose work that is inadequate (as that has been defined), no other member of the profession will feel confident of being safe from an adverse review by performing at a level only slightly higher than that of the person reviewed.



It must not be forgotten that peer review in this sense is part of the discipline process; its aim is to identify those who are practising at an inadequate level. The effect of the peer review process in raising the level of performance of the profession will be enhanced by the realization on the part of all the members of the profession that a finding that the work was inadequate was followed by the application of a sanction (even a very mild one). There will be wider knowledge of both the existence of the programme and of the consequences of inadequate performance if the results of the review process are published. This does not necessarily require the publication of names, but any publication should include at least the facts, the judgment reached on those facts and the standard that was applied. This, in turn, contributes to the awareness of the standards that existed and are applied, even if those standards cannot be comprehensively stated in advance.

In most of the discussion of standards so far it has been generally assumed that the standard will be worded in general terms: "inadequate" performance, etc. In respect of most of the work performed by any professional such a standard is probably the only kind that could be used. There are areas of practice in every profession where the standard required can probably be worded much more precisely. For example, one of the most troublesome areas of inadequate performance in regard to lawyers is the problem of missed limitation periods. It is quite clear that a lawyer who neglects to check the time within which an action must be brought will be

civilly liable to a client and may, therefore, cause a loss to the insurance fund. The existence of such a claim is very good evidence of incompetence. However, the concern of any system of peer review of lawyers is not that the lawyer being reviewed has not missed any limitation periods in the course of his practice, but that he or she maintains records or some kind of diary system so that there is little chance that a limitation period will be missed. It is comparatively easy to be precise about the kind of system that a lawyer must therefore maintain. The Law Society has, in fact, moved to require that every lawyer maintain just such a system.<sup>61</sup>

A similar example in another professional field, medicine might be the requirement that a count be made in all cases of the swabs used in an operation. Similarly, if problems of design were a major factor in claims made in either engineering or architecture, the A.P.E.O. or O.A.A. could adopt the requirement that all designs be checked. This may now be good practice, but if a failure to do this leads to cases of incompetence that particular problem could be easily remedied. It is obviously impossible for anyone other than the professional body itself to know if there are areas of practice where standards that are precise and definite can be set. Again, the important point to notice is that where there are such areas, the problems of standard-setting and application, which can be very difficult indeed, are largely avoided.

On the other hand, there may, of course, be aspects of practice that may be impossible to review adequately, if at all. It may, for example, be very hard to review work that requires a large

element of judgment or where the work of the professional involves extensive interaction with other people. It would be next to impossible to review the performance of a lawyer in conducting negotiations for a client, or that of an engineer or architect as a member of a design team. The existence of these difficulties points up one further factor that influences the success of any programme of peer review. This is the need for the process of review itself to be truly a review procedure and not another variable that the professional has to consider as he is performing his job. If the process of negotiation that a lawyer undertakes for a client is to be reviewed then the fact that there is a review could distort that process and could end up with the client getting a poorer deal than he otherwise might have. Since the process of negotiation involves extremely careful balancing of the desires of the client for a deal and a good deal, the lawyer who is performing properly cannot consider how someone outside the process will assess what he is doing. At the same time of course, there are no standards to assess the lawyer's work. Any deal may of course be improved, but it can never be known if the cost of obtaining an improvement in one party's position is greater than the benefit from the improvement in the long run. There are simply no standards to assess this kind of work. But to admit this is not to say that, for example, a lawyer or engineer who did a poor job in preparing for a meeting to negotiate a deal or design a project cannot be considered to be performing inadequately.

The rule that a lawyer cannot be sued for what is done in court<sup>62</sup> provides an interesting example of an unwillingness on the part of the judges--the rule being a rule of the common law--to interfere where the mere fact of interference may change the nature of the professional task. To offer this explanation of the rule is not to justify it, or to suggest that there is a good reason why lawyers should be any more protected than, for example, the surgeon in the operating room.

The lesson to be learned is, therefore, that peer review will only work well where there are records to be reviewed, and where there are generally accepted and applicable standards of performance. This last factor adds point to the argument that was made earlier, that every profession must consider carefully the kind of standards that can be set and must go about the hard task of setting standards where that can usefully be done.

The third factor is the problem of confidentiality and the position of the client in any review process. This problem arises in all cases of peer review. However, its impact is dependant on the reason why a particular professional was reviewed. If a client complaint triggers the review then, at least, in respect of that file, it may be assumed that the client has waived any right to complete confidentiality. Even if this assumption is not made, then it would be simple to obtain a formal waiver. When the review is triggered either by random selection or by complaints from sources other than the client, or where the review is

of more files than that of the complaining client then the problem of confidentiality arises. It will be assumed in the discussion that follows that the issue of confidentiality only of the complaining client who consents to a review can be quickly and simply disposed of.

Any programme of peer review would be rendered almost completely ineffective if the reviewers could not get access to a professional's file on the ground that to do so would violate his clients' rights to confidentiality. The solution may lie in realizing that, since this is a process of peer review, those who are doing the review will be bound in exactly the same way as the member being reviewed is bound. This may not, however, be the end of the difficulty. A client may feel that his relationship with the member has been prejudicially affected by any investigation of the work being done for him by the member. To allow a member to ask a client if he wishes to withdraw any consent to any review of that client's file would open up the problem that this may permit the member to withdraw those records and files from the review process where there may be cause for concern. A client may feel embarrassed to be asked, in effect, if he trusts the person whose professional help is being sought. The lessons learned from cases that demonstrate the ease with which fraud can be practised by a member of a profession upon an unsuspecting client should be vivid enough to raise some worries about the position of the client who is invited to refuse consent to a review of his file. Yet

where a client has a genuine concern and there is no suggestion that the client refused his consent to the review at the request or instigation of the professional, it is hard to justify ignoring the client's wishes.

It would seem to be administratively very cumbersome to require that the client give permission to any review, and, as has been suggested, possibly dangerous to allow the professional to ask the client beforehand. It may be easier to justify the professional withdrawing some clients' files from the review when the review is triggered by random selection only. On the other hand, where the review has been triggered by specific allegations of incompetence, there may be more need to review any file whether or not there may be doubts about the consent of the client. Much will depend on what records are reviewed. Records like those referred to in the examples of the real estate search or the limitation period, and those of many kinds of engineering or architectural projects would not be likely to disclose anything that would be highly confidential. Yet other records--proposed developments or buildings, intimate financial information or personal data--could be regarded as much more likely to be highly confidential.

This issue also says something about the kind of people who should do the reviews. Since the essence of this method of discovering incompetence is the fact that the review be done by the member's peers, there must be some mechanism for ensuring that those who do the review are not themselves compromised by the review. One engineer's work should not be reviewed



by another engineer who is, or who is working for, a competitor of the first. Similarly an accountant employed by one firm should not review the files of another accountant containing information on clients who are in competition with clients of the accountant doing the review. The numbers in all the professions are large enough that this should not be a major difficulty. Both the member being reviewed and the member doing the review should be able to raise objections (with cause) to the review and this could result in a change in those doing the review. Similarly, there should be an opportunity for the member being reviewed to challenge (again with cause) the objectivity of any member selected to do the review.

These issues make the job of peer review much more complex than it might at first sight appear. But if the process is worth undertaking, it is worth doing in a way that will minimize subsequent problems. One way to avoid some of these issues might be for the professional body to employ members who will do the reviews. This may, however, lead to other dangers: those doing the review may be out of touch with the conditions of practice, and they may be subject to the criticism that they have no independent view of how the standards should be applied. Each profession must deal with this problem in the light of the particular issues raised in each profession, and the legal arrangements made for peer review (whether these are regulations made by the governing body of the profession or actual legislation) will have to specify the way in which the problem of confidentiality will be handled.

A particular problem arises in the case of lawyers. A lawyer cannot be asked in any legal proceedings to disclose any facts relating to his client's affairs. This is the client's privilege under the rules of evidence. It must be made clear that in any process of peer review in the legal profession, those who obtain access to information that, as regards the lawyer being reviewed would be privileged, are bound in exactly the same way as the lawyer. It is not necessary to express any opinion here on the question whether or not legislation is needed to deal with this problem. It is simply a problem that has to be dealt with in setting up any process of peer review.

One further problem needs to be mentioned. The relationship of a member of one of the professions to a client is one of trust. The client is content to put his case in the hands of a professional because he trusts him to act in his (the client's) best interests. A programme of peer review is justified because the profession has to demonstrate that this trust can continue to be placed in the hands of its members. The question then is whether a peer review programme can ultimately do much to increase the level of trust that is placed in the profession. In one sense, the inherent conflict of interest between the professional and his client--the professional is both agent for the client and a supplier of the services the client needs<sup>63</sup>--is now elevated to a more general concern. At a theoretical level, at least, the process of peer review could force a profession to worry about the standards that

the professional as agent must meet, and the standards that the professional as supplier of the services that the client needs must also meet. This problem has arisen in the context of medical practice. Here the problem is raised in a very dramatic way when the person receiving the professional care is not the same person as the person who has to pay for that care. The concern of those representing the payer of the services has been to keep costs down: the concern of those representing the recipient of those services has been to ensure the highest possible level of care.<sup>64</sup> The same conflict exists even though the recipient payer may be the same person. Can a profession insist on standards of service or performance that are appropriate from the point of view of the recipient but which ignore the interest of the payer, and vice versa? Translated into the specific case of the client and his professional adviser, the question becomes whether the process of peer review can add anything to the resolution of the inherent conflict of interest in the relationship. If the process emphasizes one aspect of professional service at the expense of the other, e.g., if it applies the standards of performance that are required regardless of the impact on the payer, will the client be getting the best possible treatment? The answer at a practical level to this dilemma may be to avoid the conflict by ignoring the point of view of the client as payer for the professional services he receives. The best that can be done here may be that there will be concern on the part of the profession that the

standards of performance that are applied in the peer review process will be reasonable. Again, as a practical matter, where there are both sophisticated and knowledgeable clients and any competitive forces present in the supply of professional services the problem will disappear. In this case, market forces will ensure that the client receives good value for his money, for now the professional has to consider both the points of view of the client as recipient and as payer. Where only the first of these factors--knowledgeable clients--exists the problem is largely diminished. Where neither factor is found the problem remains. These latter cases will be those that have already been discussed. Knowledgeable clients of accountants and lawyers can change firms. The individual client who may have only very limited information about either the level of performance of the work he had done for him or the comparative costs of the work is the person whose trust in the member has to be vindicated by the profession.<sup>65</sup>

The general problem that has just been raised is, of course, one of the most fundamental in the whole process of self-regulation. This is the issue of the ability of any profession to assert effectively the public interest in competent service at a reasonable cost as opposed to the professional interest that may either encourage restrictions on access to the profession or require a level of performance that serves only to increase the charges that can be made by its members. The right of any profession to govern itself and its ability to set appropriate standards of

practice that must be met by its members have not been challenged in this paper. When any peer review programme is seen as serving the professional interest and not the public interest then it may be necessary to challenge the right of the profession to govern itself and set the standards of performance. It is precisely because a peer review programme involves the assertion by the profession that all those practising must meet certain standards of performance that the profession must carefully consider whether any such programme will, in the long run, result in the profession discharging more effectively its obligations to its clients and the public.

At a much more basic level, the existence of any extensive peer review programme may have to be carefully explained to clients who become aware of it so that the client is not led to believe that the member being reviewed is necessarily considered to be incompetent. The result of a review may be that a member would have to give a client different advice or change what had been done. If this decreases the client's trust in the professional that is inevitable.

The fourth main issue is the determination of who shall evaluate the results of the review process. There are two obvious alternatives (and there are probably variations on these). One is to have those peers who do the review do this. The other is to have this done by a committee who receive the reports of the reviewers as information. The College of Physicians and Surgeons of Ontario in its pre-pilot study of peer review has adopted the second of these. This has, certainly at a preliminary stage, the advantage that the evaluation

of the work performed is made by a larger group than could possibly do the "on site" inspection and, therefore, by a group that can make a more objective and careful appraisal of the work done by, possibly, many professionals. The use of a committee also makes the job of those who do the actual inspection easier in that they are not required to do more than report to the committee. It may not be possible to have a complete separation of functions in all cases. In order to obtain consistency in assessment throughout the profession there will have to be some kind of a committee to review what standards are being applied and what kinds of problems are arising. The investigation undertaken by the reviewers may depend on the kind of records that they find and their initial judgment that the level of performance is adequate. The appearance of inadequacy may lead to further investigation. In some instances the information reported may take the form of a statement that certain records did or did not meet the standards laid down by the profession and here the judgment of the reviewers (if positive) may be final and there may be nothing for the committee to review. What method any profession adopts is, again, something for each profession to decide.

The process of review should not be undertaken by the same body that is involved in either the voluntary review or practice advisory service unless steps are taken to ensure that the educational value of those services is maintained. It has already been argued that if the members of a profession believe that a request for assistance will trigger a review for the



purposes of discipline, then there will be few or no requests for assistance.<sup>66</sup> It may be possible to maintain the necessary separation, and in this case, there may be no objection to the same body performing both functions: the educational and the disciplinary. There would be some advantage in doing this if the performance of the disciplinary function could be more efficiently undertaken by building on the experience of the educational function.

The costs of peer review are likely to be high. The justification for a programme of peer review is the demonstration of the determination of the profession to take active steps to ensure the competence of its members. It is apparent that the effective control of incompetence or maintenance of competence are not easily achieved and, if that is the aim of the profession, these costs have to be incurred. Each profession must determine for itself what costs will be incurred and how the benefits from a peer review programme can be most efficiently obtained. A failure on the part of any profession to ensure competence provides a basis for challenging the right of the profession to govern itself.

## 6. The Role of Continuing Education in the Maintenance of Competence

### A. Introduction

The aspects of continuing education that will be discussed in this section of the paper are concerned with responses to incompetence. This will be either the incompetence of individuals who have been identified by one of the methods discussed in the previous section or that of the profession generally. The role of continuing education in each profession is principally the provision of opportunities for members to keep up to date. It is expected that whatever may be done in response to the issues raised in this paper this role will not change. There will always be a need for the kind of updating and review programmes that are now provided by each profession in one way or another.<sup>67</sup>

The role of continuing education in maintaining competence can now be examined in the light of what has so far been said in this paper. The first point to notice is that the setting of standards and the adoption, in particular, of a peer review programme will have given each profession both a clear view of the purpose of any programme of continuing education and a method of determining who in the profession may be incompetent and in what respects. This will, in turn, permit the design of programmes to remedy the incompetence and to ensure that, if the professional is not able to perform at an adequate level, further steps in the discipline process can be taken. In addition to the

information on individuals that a peer review programme can disclose, that programme, together with information from the insurance carrier and any other source, can provide an overall view of the competence of the profession, of the areas of practice where there is a higher than average incidence of incompetence, and of the kinds of practitioners who are more or less likely to raise problems of competence. It is to be expected that all this information can be used, and will, in fact, be necessary in the design of programmes of continuing education. It may be the case, of course, that such information may disclose inadequacies in the qualifications of those entering the profession, and that the changes that should be made are not those in any continuing education programme. Again, it must be emphasized that only the professional body is able to assess the information that it will now have and determine what responses should be made. This part of the paper will discuss what these responses can be and what are the advantages and disadvantages of any particular response.

#### B. The Response to Individual Incompetence

It is assumed here that an individual has been found to be performing inadequately by one of the methods that the profession has adopted. The responses that the profession could take cover a wide range. At one extreme, the member could be required to take and pass some kind of exam designed to determine conclusively

the member's competence. Failure in the exam would then lead to a suspension of that member's right to practise. At the other extreme might be the requirement that the professional practise only under the supervision of another professional. In between there are a number of other methods. In discussing each method it must be borne in mind that there is no reason for each to be considered in isolation. The disciplinary body that imposes the sanction of "continuing education" can use several in combination. For example, the sanction of practising only under supervision can be coupled with a requirement that specified courses be taken or exams passed. Once the profession has (or asserts) the wide range of sanctions that has already been outlined<sup>68</sup> then extremely flexible methods for ensuring competence are available.

(i) Exam Alone

The sanction that the person found to have performed inadequately take and pass an exam as a condition of continuing to practise has the advantage that it is a well-recognized way of determining competence. For many professions it is the way in which initial competence was determined. It has the appearance of objectivity and of providing a clear-cut answer to the issue of competence. There are, however, a number of problems that arise from the use of this method. It makes sense that all those entering a profession have a broad range of knowledge. This ensures that each person has the maximum chance to find a place in the profession that is congenial. Very few

people, however, once they are in the profession are likely to do work that will involve anything like the range of knowledge that they had on entering. Whether or not there is official specialization in the profession, there is specialization in fact. Of course the degree of specialization will vary. If an examination is to be effective and fair then it has to be fitted precisely to the work being done by that professional. This is likely to make the use of exams both difficult and expensive. Secondly, in many professions, the skills that are required for practice are not always those that are easily examinable. When practical judgment is required of the professional, an examination is unlikely to be a useful tool for evaluating the exercise of judgment.

Some of the problems of exams can be avoided by the use of computers and sophisticated computer programmes. In the United States in both medicine and law<sup>69</sup> computer programmes have been designed that can fairly accurately re-create actual situations that are likely to occur in practice. For example, a doctor could be presented with a problem of diagnosis. The computer could be programmed to provide additional facts that would in real life be available from lab tests, etc. as the doctor proceeded with the examination of the patient and the computer could also be programmed to respond to the treatment prescribed. The programmes can either operate as a test of the doctor's knowledge or as a means of permitting self-evaluation. The advantage of the method is that the test can be very specific

and can very accurately recreate the conditions in which the kind of practical professional judgment that would be called for in a real-life situation would be made. However, these methods are expensive to use. The cost of creating the programmes is high and the professional being assessed has to have ready access to a computer. Such methods may, therefore, be nothing more than ideas that can be picked up at some time in the future.

An examination and the threat of further disciplinary action should the exam be failed can provide a real incentive to learn. The method of exam alone leaves the learning up to the resources of the member. That is an inexpensive way from the point of view of the profession. An exam may be useful in those areas where, for example, the inadequate performance resulted from a failure to learn some procedure by memory or where the knowledge is of an "academic" as opposed to "practical" kind. The character of the person being reviewed may also be important. If the inadequate performance was due to sloth or carelessness an examination may be inappropriate. The exam could be passed and there would be no guarantee of future improvement. Similarly, where the inadequate performance is due to mental or physical illness little would be achieved through an exam.

An exam may, therefore, have a place in the armoury of sanctions. It is a form of continuing education that leaves the education up to the member concerned; the exam is simply the spur. There are, however, serious limitation on its uses as a general remedy for all instances of incompetence. Modern methods of testing through



computers may make the use of a system of evaluation alone more flexible and such methods should obviously be considered by all the professions. The use of any method, old or new, is, again, something for each profession to determine for itself.

(ii) Attendances at Courses of Study

A member found to be performing inadequately could be 'sentenced' to take courses. There are two issues to consider in this case. The first is the quality of the courses and the second is the incentive to learn. The suggestion that a member simply take a course as a condition of retaining the right to practise may appear to be too fatuous to consider. But in certain circumstances it may be precisely the right remedy. Where the reason for the inadequate performance is lack of knowledge of simple office control systems or inadequate supervision of subordinates, the risk of further inadequate performance may be removed simply by providing information. For example, inadequate performance may occur when the professional is just beginning to get more work than can be handled with his existing resources. All that may be necessary to avoid any further problems may be knowledge of the methods available to handle a larger amount of work.

If the reason that the member's performance came to the attention of the profession was a client complaint or a finding of negligence, then the proper 'sentence' might well be that a

particular course be taken. It is possible that the kind of inadequacy would be discovered by a peer review programme. In such a case, the mere fact of the review and the identification of the source of any inadequate performance might be sufficient to alert the member to the risk he was running. This is one further illustration of the flexibility that is desirable in both discovering incompetence and fashioning "sanctions". While there may be no direct incentive in simply requiring attendance, there is always the indirect incentive in the threat of further (and more unpleasant) sanctions should there be no improvement.

Even if the issue of an incentive is ignored, the course must be such that the person can benefit from attendance. It is unlikely that there would ever be sufficient demand for courses of any particular kind simply as a result "sentences" under the discipline process. It would normally be the case that the member would be required to take a course that is already being offered to the profession generally on a voluntary basis. The problems that would now arise are caused by the fact that, at least for some members who are taking the course, attendance would not be voluntary. This raises the issue of accreditation. It may be assumed that those courses that are sponsored or run by the profession itself would be of a high enough standard to justify anyone's time in attending. It may, however, be desirable to allow others to offer courses. Courses could be offered by universities, government agencies or by private enterprise. If the member is simply to attend a course then any course

not sponsored or offered by the profession itself would have to be accredited. This can be done in any way that the professional body thinks fit: individual courses can be accredited or institutions, such as the appropriate professional faculty in a university, can be accredited so that any course offered by such a body is presumed to be of a sufficiently high standard to be useful to members. It would be essential to ensure that the performance of these bodies is regularly reviewed by the profession. Accreditation is an inevitable consequence of the fact that courses are offered by those over whom the professional body itself may have no direct control.

Attendance can easily be encouraged by the addition of direct incentives. The sanction imposed could easily be attendance at a prescribed course and the satisfactory completion of an exam at the end of it. This offers a very direct method of ensuring that the course has to contribute to the member's knowledge. The use of an exam or test of any kind is subject to very much the same limitations as have already been discussed. An exam might be marginally more useful when it is preceded by attendance at a prescribed course, but even then, its usefulness is limited. But even though exams may have only limited use, they do have their place and can be valuable.

### (iii) Supervised Practice

As an aspect of continuing education, the sanction of practising

under supervision should only be imposed where the person can learn from the experience. Supervised practice may have other purposes and these have to be distinguished and kept in mind. In these cases supervised practice may be an alternative to suspension or even expulsion. The member who, for example, is mentally ill or emotionally disturbed, may be a real danger to his clients if allowed to practise without supervision, and should, therefore, be prevented from doing so. But it may be unnecessary to do this by suspension from practice. This would be a very serious blow to someone who may have more than enough troubles to bear and the requirement that the member practise under supervision is a convenient and compassionate compromise.

As an aspect of continuing education, the inadequate performance must be caused by something that is amenable to cure by following the good example of another. All the professions being studied have a requirement of service as an articulated student or in some suitable work experience as a condition of entry to the profession.<sup>70</sup> It is assumed that such service contributes to the learning experience. It is also assumed that such service provides education that cannot be acquired in a university or other academic institution. The sanction of supervised practice should have much the same function as these pre-entry requirements. By the same token, the sanction has exactly the same limitations as the pre-entry service requirements: there are difficulties in getting adequate supervision; a heavy burden may be placed on the person who is made responsible for the supervision;

only certain kinds of knowledge can be usefully communicated in this way; the motivation to learn may be lacking; the experience can be very variable: personal factors may become extremely important. A profession may be prepared to incur these problems at the pre-entry stage in the belief that the practical experience gained in such service is worthwhile in the long run. As an aspect of the learning process before entry to the profession, those working under supervision may be a relatively cheap source of quite highly skilled labour. Even these advantages are not likely to be achieved where the sanction is applied to someone who has already been admitted to the profession.

As a practical matter there is a built-in paradox in this sanction. The sanction would obviously cause few problems in implementation if the member concerned practised in a large firm. There would then be ample opportunity for good supervision. The existence of such supervision as a routine aspect of practice in a large firm would, of course, go far to reduce the chance of any member of the firm performing at an inadequate level. There will, however, be the greatest need for supervision in the case of the professional who practises alone and here, of course, the difficulties in the way of arranging for such supervision are the greatest. The only solution to the problem is, again, the general one that each case must be judged on its own merits. There may be a possibility of effective supervision and this may offer a good opportunity for the member concerned to learn what is necessary

for adequate performance in the profession. There are, however, as has been mentioned, serious difficulties and the body that seeks to impose such a sanction will have to consider these.

It is only necessary to revert to the issue of confidentiality that was discussed in connection with peer review.<sup>71</sup> Again, supervision within a firm may avoid many of these problems since there are standards of ethical conduct that preclude one firm of professionals acting for two clients adverse in interest.<sup>72</sup> When supervision occurs outside the situation then the issues of confidentiality and, in the legal context, privilege, have to be considered before such a scheme can be implemented.

It is obvious that the problem of the incentives that the disciplined member has to improve must also be considered. There is no reason why a period of supervised practice could not be followed by an exam or other test, should this be thought to be necessary. Similarly, there may be no reason why there should be any evaluation. It would also be the case that a "sentence" to supervised practice could be temporary. If it is not temporary, there would appear to be no educational component to the sanctions: its only justification in that case would be the need to ensure the protection of the public and then, as has been said, it is simply an alternative to suspension or expulsion.



(iv) Other Methods

In addition to any formal and traditional method of either evaluation or education, the experience of being subjected to a thorough peer review can be highly educational. The mere fact that the member has had his or her work evaluated by those whose judgment should be respected and by the application of standards that are generally shared by the profession may be sufficient to ensure competent work in the future. In many cases incompetence will be due to ignorance or inadvertence that can be easily remedied. There will always be those in the profession who need the force of a powerful incentive. In regard to these people, there may be no improvement short of the threat of suspension or expulsion. A profession cannot shrink from taking this step should it be necessary in the interests of those who would suffer were the member left to practise.

Again, it must be emphasized that there is a wide choice of methods that the profession can use. The mix of sanctions will be largely determined by the response that the particular circumstances of each case require. This must be the decision of the profession itself.

C. The Response to the Concern for Competence Generally in a Profession

It is inevitable that some members in any profession will be incompetent. It is both proper and imperative for the professional

body to be concerned about the consequences of any incompetence. It is sometimes assumed that what was a useful way of determining the qualifications of those who sought admission to the profession is equally useful in ensuring the continued competence of the members. This belief has two consequences that are of concern here. The first is that there should be a mandatory re-examination of every member of the profession. The second is that every member should undergo some form of continuing education. Each of these solutions to the perceived problem has some major disadvantages that have to be examined.

(i) Mandatory Re-examination<sup>73</sup>

This method of ensuring competence has all the difficulties that arise in the case of the use of exams in regard to individual members.<sup>74</sup> In addition, if the individual is examined in areas that the profession believes should be covered before entry to the profession, then any exams are almost bound to be unfair to those members who have specialized in their practice and who are expected once again to become generalists. This problem may be slightly alleviated by allowing the member to choose the areas in which he will be examined, but this will not avoid other problems. Some of the difficulties with exams that arise from the fact that they can only test certain kinds of knowledge, may be lessened by the use of modern computer technology, but, as

has been said, this is both expensive for the profession and for the individual who does not have ready access to a computer. The sheer scale of such an undertaking is awesome. There are over 40,000 members of the A.P.E.O. and to examine 8,000 to 10,000 per year (as would be required if there was a five year review) would pose enormous logistical problems. The difficulties would be only slightly reduced by examining professional engineers in each of the special categories recognized by the A.P.E.O.

Presumably, any member who failed the mandatory re-examination would have, ultimately, to lose his licence. The member could be offered more than one chance to satisfy the requirement, but repeated failures must eventually lead to the member being suspended as being incompetent, since the purpose of the exam is to test members' competence.<sup>75</sup> This would in turn require investment in re-education in some form or another. This kind of re-education can be justified when it is precisely tailored to the inadequacies in a member's practice that have been identified in one of the ways that have been discussed. As a general requirement, triggered only by failure to perform adequately on an exam, it would seem to be a very inefficient way to ensure the competence of the members of the profession. An alternative might be the loss by the member of the right to practise in all fields. Thus, failure in an exam in a particular area of professional practice could result in the loss of the right to practise in that area. It could be assumed that failure indicated inadequate knowledge and this, in turn, could indicate that there was a significant risk of incompetent performance in the area involved.

But this consequence would seem to be inconsistent with what is now done and fraught with problems. For example, a person who acquires a specialization in engineering is not thereby disabled from practising in a wider field than the designation. The only effect of a specialist designation is that the specialist can hold himself out as possessing some skills beyond those possessed by those who are not so designated. There may be, of course, an obligation on all members of any profession not to practise beyond their capabilities, and qualifications,<sup>76</sup> but, apart from this, there may be nothing unethical in any member undertaking any professional task. The result of a system of mandatory re-examination would then be the creation of a class of professionals who could not practise beyond the area of their speciality: for a member to practise beyond the areas in which he had successfully passed an exam would be equivalent to practising without a licence and certainly grounds for discipline.<sup>77</sup>

It is not, of course, an irrefutable argument against any innovation to say that the results of the proposal are inconsistent with what is done now. But there are some difficult problems facing any profession in adopting any proposal for mandatory re-examination that are, at least, avoided by the present system. It must follow from the fact that all members of a profession specialize whether or not they take (or can take) any official specialist designation, that the range of exams taken by any member must be less than the

range of practice in the profession (or even in the sub-group to which the member belongs). This, in turn, must lead to specialist designations in fact if the results of failing part of an exam are as has been suggested.

The problem is only slightly altered if the member should pass all the exams he was required to take. It must follow that if a person has only been examined in one narrow area of practice, successful performance on that exam says nothing about the member's qualifications to practise in other areas and the member must, therefore, be limited to practising only in those areas where he has successfully passed an exam. This would seem to bring in a wide variety of problems without any corresponding benefit.

The problems that this would cause are not just those facing the member who now finds his de facto specialization transformed into a de jure one--and a far more rigid classification than is now the case with designated specialties. A client who needed a mechanical engineer to perform some work might now need three, all forced into performing a very limited range of functions. It would not matter that the level of performance required in one area might be low. This could not be accepted as an argument that an engineer who was not qualified in that area was nevertheless performing adequately for the client. Performance outside the area of practice for which the engineer had been qualified would be a violation of the limits set upon his licence.<sup>78</sup> The fact that the client was not prejudiced would be irrelevant in precisely

the same way as it is irrelevant to a charge against a non-member of a profession that he practised without a licence. A person charged under The Architects Act with the unauthorized practice of architecture will not escape conviction by showing that the service provided was as good as that provided by any qualified architect.

In addition, there would be a great potential for disputes between individual members of the profession themselves and between the professional body and its members over what would now be the unauthorized practice of a speciality. This kind of issue can now only arise where the member holds himself out to the public as having a particular qualification that he does not. This does not lead to disputes between members, in the way that the limited licence situation would.<sup>79</sup>

It would be possible for the profession to require that all members pass exams in certain areas that have been chosen as representing the basic elements of professional knowledge. It is easier to see a justification for this requirement since it could be assumed that any professional must know the basic elements. Such a programme appears to avoid the problems of specialization as well. But even here the real difficulty has not been met. It is unlikely that members of any profession are incompetent in regard to the basic elements of professional knowledge. It is far more likely that incompetence is due to either carelessness or a failure to keep current in some relatively restricted area of practice in



the profession. Knowledge of what is "basic" would then have only slight impact on incompetence generally. There also is little reason to make the highly competent specialist, whether the member is a de facto or designated specialist, demonstrate his competence in areas other than his speciality, even if those areas are "basic". If this kind of proposal were to represent the response of the profession to incompetence, then the profession can hardly be regarded as taking a very serious view of incompetence. Of course, if the profession does discover that there is a significant proportion of incompetence cases in these "basic" areas then those members who are found to be incompetent could be required to take remedial courses and exams on them and others could be encouraged to take them as well. In this case, the problem may be with the way in which the basic courses may have been taught at the pre-entry stage, and the remedy would not be at the continuing education stage. It is difficult to assume that any deficiencies in practice in the profession would be remedied by re-taking "basic" courses.

There is little benefit from any scheme involving universal re-examination. There may be some increase in the competence of those who were performing inadequately. But even the achievement of this is subject to the overriding difficulty of ensuring that the exam is an appropriate method of determining who is performing inadequately and that it is, therefore, an effective incentive to encourage adequate performance. But the major difficulty is that

for the bulk of those who were examined there would have been no reasonable basis for challenging their competence. The kinds of things that encourage competence (apart from the member's simple desire to keep up-to-date and to have pride in what he does) have been mentioned: practice in a competitive environment; practice in a large firm that has elaborate checks on its members; practice as an employee; practice in an area where the clients are knowledgeable; practice in an area where the client gives immediate feedback on the professional's work, and so on. In short, any system of mandatory re-examination of all the members of a profession is an extremely inefficient method to ensure the competence of the few who need such a threat as an incentive to adequate performance. It would seem far more important and efficient to find out those who are incompetent and to concentrate concern there.

One further point should be made here. It is usually assumed that what is or is not adequate performance on an exam is capable of easy identification. This is not necessarily so. The purpose of the exam is to test the competence of the member to practise. It is not to test the mere acquisition of knowledge or the ability to memorize facts. Of course, knowledge and memory are important, but only as they help the member to practise at an adequate level of performance. There is no reason to assume that the problem of setting standards should become markedly more simple because that is now done in an examination process and not in a discipline hearing. In many respects, the reverse is likely to be true.

At least in the discipline hearing there are harder facts than are likely in the examination setting: the discipline hearing is dealing with a real life situation and not some hypothetical one. The member charged with incompetence will be disciplined if he failed to act as a reasonably competent member of the profession in the circumstances. The member is not assessed there on how well the answer to the examination question involved a good guess as to what was in the examiner's mind when the question or problem was set. As the examination moves towards practical questions as opposed to academic questions and is seeking to test the member's performance in real life situations, the difficulty of setting the appropriate standard for satisfactory performance on the exam may approach that of assessing the member's performance in real life situations. But in this case the exam becomes very difficult to set as the questions become longer and more involved. As a final point, it will be the case that the difficulty of setting standards for exams will always be greater than or equal to the difficulty of assessing real life performance; it will never be easier unless the exam is a trivial exercise that is itself bound to fail in its purpose of maintaining competence.

(ii) Universal Mandatory Continuing Education

In several jurisdictions in the United States and Canada<sup>80</sup> various professions have a requirement that the members must attend a certain number of hours of courses in a year or over a

period of a few years.<sup>81</sup> Such a requirement raises some specific problems of implementation. The problems are essentially the same as those that were mentioned in connection with the individual sanction of attendance at courses. There is the need to ensure that the courses are of a sufficiently high standard to be useful. This will nearly always involve the issue of accreditation. It can be argued that if the profession simply requires attendance at a certain course for a certain number of hours, market forces will lead to the offering of good quality courses. It is assumed in this argument that few people will waste their time at courses that are no good and only those that are good will then be offered. This argument assumes too much. Many members of a profession are likely to prefer to spend time in undemanding courses rather than demanding ones. Courses, being tax deductible expenses, can be offered in exotic tropical resorts in February and can become then an excuse for a vacation. Further, it seems hard to argue that the profession is responding to the danger to the public of incompetence by requiring attendance at courses without taking some steps to ensure that those courses meet some minimum standard of quality. There are also, of course, major logistical problems in providing courses for e.g. all the members of the A.P.E.O. or in meeting the problems of geographical dispersion in all the professions.

Even if we assume that only attendance at accredited courses will satisfy the requirement, is this method likely to ensure competence? In so far as we are concerned about the competence of

the profession generally it is unlikely that mere attendance at a course will achieve much. Those who would remain competent in any event will remain so. Those who would not may be encouraged to perform better, but only in a very narrow set of circumstances. It is much more likely that the courses will have only a very slight impact on competence unless great care is taken in the way that they are created and run. There are four principal problems that arise. First, since the number of hours is usually fairly small, e.g. 10-20 hours per year,<sup>82</sup> it is unlikely that any member who took the minimum required courses could cover a very wide range of courses or study any area in depth. Second, problems of incompetence are likely to arise because the member did not know that what he was doing involved any risk of incompetence. Deliberate failure to meet acceptable standards of performance does not seem to raise issues of incompetence so much as issues of misconduct; the fact that the failure was deliberate justifies the inference that the member knew what was adequate. It would only be by chance, then, that the hours would be spent in a course that did have an impact on competence. Third, unless there is an attempt to tailor courses to the needs of the profession, and, in particular to the needs of those likely to be, or found to be incompetent, the courses themselves may be a waste of time even to the person who did seek to improve the level of performance. Fourth, there will inevitably be a wide range of ways in

which members of the profession can learn. There may be some flexibility in the kind of courses that are offered, e.g., lectures and seminars or videotapes and materials for home study, but unless there is this flexibility it is unlikely that every member will have an equal opportunity to learn.

Some of these problems can be lessened or avoided if care is taken. The knowledge that the profession can obtain of the pattern of incompetence will permit the design of courses that are precisely tailored to areas of practice where incompetence may be common. There are, of course, limits to this. It may be uneconomic to offer courses for a very few members and some examples of incompetence are not likely to be affected by attendance at courses. Members can be steered in the direction of these courses by being made aware of the problems of incompetence that have been identified. The courses that are offered as part of the loss control programme of the National Programme Administrator are put on because there is a need, and those who attend them are aware of the need and take the opportunity to attend.<sup>83</sup> It is also comparatively simple to build in some incentive to take such courses by allowing for example a rebate on the insurance premium paid by the member.

The problems of individual learning differences can be lessened by providing both lectures and published material. It may be presumed that it is largely a matter of indifference whether the member attends classes or reads materials. This, too, can avoid problems of the numbers and geographical distribution



of the profession. Members who practise in geographical isolation are not necessarily beyond the reach of course material and other publications. The logistical problems of reaching 40,000 engineers by means of publications are slight compared with those involved in reaching the same number in courses, even when these are offered by bodies other than the A.P.E.O.

A universal mandatory programme run along these lines might do something to raise the level of performance. But the major problem of the inefficiency of such a requirement has not been met. If the profession is not prepared to invest a large amount of resources in a programme of universal mandatory continuing education and, in particular, if it does not take effective measures to ensure that courses are tailored to the actual needs of the profession in terms of the areas and incidence of incompetence, then there is only the illusion of concern for competence and of a determination to deal with it. No real attempt will have been made to ensure that effective steps have been taken to ensure competence.

There seems to be relatively little to be gained from the imposition of general or universal mandatory re-education. Such a requirement alone is unlikely to be an effective response to the problem of incompetence. The value of some kind of re-educational programme could be enhanced if the programme were designed in the light of feedback from the sources of information about competence problems. However, even if this were done, the requirement that

every member of the profession take some course is simply unnecessary until it can be demonstrated that those who need to improve their level of performance are taking the courses that are likely to achieve this. General requirements imposed on all members of the profession are (and can be) no substitute for the work of finding out who in the profession is performing at an inadequate level. When that information is known the provision of educational opportunities and other incentives can be precisely tailored to each case.<sup>84</sup>

Nothing that has been said here about the problems of general or universal mandatory continuing education should be taken as an argument that continuing education is not both a vital part of any profession's responsibility to its members and the public and essential in maintaining the competence of any profession. It has been argued that the resources that are put into continuing education should be efficiently used. Mandatory continuing education is not an efficient way to ensure competence. Any continuing education programme should have the following features:

- a) Courses and materials that bring recent developments that might affect the practice of the profession to the notice of members.
- b) Courses and materials that offer an opportunity to review areas of practice or the role of the profession and the discharge of its obligations.
- c) Programmes that are specifically designed to encourage competence. These may be part of a loss control programme

of the insurance carrier but need not be. They could be seen to be necessary as the profession obtains systematic knowledge of the patterns of competence and incompetence in the profession.

d) Programmes that offer members the chance to upgrade their skills. This is necessary whether or not the profession offers any specialist designations.

The effectiveness of any programme of continuing education will be enhanced if some consideration is given to the existence of incentives. Some have already been discussed. The member who faces suspension or expulsion if the level of his performance does not improve has a strong incentive to take continuing education seriously. The member who can save on his insurance premium by attending courses offered as part of a loss control programme has an incentive. Some professions in the U.S. have allowed members who have taken a specified number of courses to bring this fact to the attention of their clients by means of framed testimonials or certificates.<sup>85</sup> Here also membership in some professional societies that offer evidence of added qualifications of the professional may be open to those who have taken some specified courses over a period of time.<sup>86</sup> Since membership in such a society confers the advantage of quasi-specialist designation the loss of membership in the society (as opposed to the profession) does not have any impact on the member's right to practise. This is particularly important if the profession does not recognize

the area of practice as an official specialty.

There are many ways by which a profession can offer its members the chance to remain competent. In addition to the more traditional forms of education: courses, seminars, publications and video and audio tapes, this paper has referred to such devices as peer review, the process of standard setting and the opportunity to watch other members as they practise. Every profession should be prepared to consider the whole range of experiences that can be regarded as part of its continuing educational programme. Obviously some types of experience will be more appropriate in some professions than others, or in some areas of practice than others. The most flexible mix and the widest range should be encouraged by the profession. Some kinds of experience may be best offered under the auspices of the profession itself. Other kinds may be offered by other bodies. Where accreditation is necessary every profession will have to set and monitor the standards that will be applied. Even in offering courses under its own auspices each profession must ensure that those who are running the courses have clear guidance on the standards that must be met. Those who attend any accredited course or course put on by the profession are entitled to assume that the course implicitly sets the standard of performance that has to be reached.

## 7. Incentives

So far it has simply been asserted that any professional body has and should have a concern for the competence of the members of the profession. In discussing any scheme to ensure that the members of a profession remain competent some concern has to be paid to the identification of those pressures that operate on the profession as a whole that encourage the profession's concern for competence. Some of the pressures that operate on individual members have been discussed: the threat of disciplinary proceedings; financial incentives through experience rating for insurance purposes; competitive pressures, etc. It must now be considered whether there are any pressures on the profession as a whole. Professor Reiter has already discussed the function and value of various kinds of bodies that might operate to ensure that all professions take the job of competence seriously and to ensure that the public interest is considered.

It is necessary that there be some incentive on a profession to take the job of ensuring the competence of its members seriously for the simple fact is that the job of ensuring competence is both difficult and expensive. In the long run it does not really matter whether individual members are required to pay the full cost of any educational programmes that they use or that these costs are borne by the profession and the costs passed on to members in the form of increased dues. The result in either case is that the members have to pay. There might be a minor tactical point

in considering whether the cost of a course should be subsidized by the profession at large in order to encourage members to take advantage of it. No argument can be made that the cost of courses should be subsidized by government. It is hard to see why the public should pay in order to have members of a profession meet their obligation to perform at an adequate level.

There will also be pressure from members who fear that the imposition of programmes to encourage competence may affect them personally and adversely. The pressure will depend on whether the professional body has or has not a monopoly position. The constraints identified by Professor Reiter on, for example, the use of the C.G.A.A.O. disciplinary proceedings for incompetence<sup>87</sup> illustrate the problem arising from the fact that membership of C.G.A.A.O. confers no special right to practise accountancy. The much stronger position of the I.C.A.O., on the other hand, permits it to behave as a professional body that can control the right to practise. Where the professional body has this right, it need not fear the loss of members should it adopt a very vigorous campaign to require competence in its members. Here membership pressure can be balanced by the fear that if the profession does not take steps to control competence then someone else will. This last possibility is certainly not regarded as a desirable development, given that the basic assumption underlying this paper is that the profession itself is best able to set standards, identify the incompetent and determine what course of action will best ensure the continued competence of all members.



The most powerful pressure that can be brought to bear on any profession is the threat that significant changes will be made in its right to govern itself. This paper is not the place to debate the wisdom or not of this issue. The arguments that have been made by Professors Aucoin and Reiter on the issue of public accountability have adequately canvassed that issue.

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There remains one direct incentive that operates on the profession generally and that can encourage the profession to take steps to control incompetence. This arises from the fact that incompetence costs money: clients have to be compensated for losses caused by professional negligence. Where the professional body is itself the insurer of losses arising from incompetence, as in the case of the Law Society, the costs of meeting the claims made against members must be borne by the profession. The insurance levy paid by all practising lawyers, for example, is designed to meet this cost. At the moment, there is no experience rating of any member of any of the professions. This means that each member bears an equal share of the cost of the insurance protection for all. Experience rating would put a greater proportional share on those who are likely to make more claims. But even with experience rating, the cost of insurance (which varies directly with the incidence of incompetence in the profession) will still be a significant burden for all members. The more directly the profession itself is involved in the insurance scheme provided for its members, the more directly the profession is affected by the costs of providing insurance cover. The Law Society has to levy what is in effect an insurance premium on all lawyers.

But it too is the only body that can effectively respond to the problem of incompetence. Where the professional body is not so directly involved, it is not put in the position of asking its members for money for insurance. Where effective use is made of information supplied by the insurance carrier (as in the case of architects and engineers) there will be a loss prevention programme and even an educational programme designed to reduce the incidence of claims against the insurance carrier. But even here the information may not be effective to disclose examples of individual incompetence so that steps can be taken to discipline the member responsible.<sup>89</sup>

But even if the information from the insurance carrier does not disclose examples of individual incompetence, it can sometimes be effectively used by the profession to control its members in ways that are much more direct than any loss prevention programme. The Law Society, for example, has recently moved to require that all lawyers keep records in real estate transactions so that the record of the lawyer's work can be effectively reviewed.<sup>90</sup> This move was made in response to information from the insurance carrier (the Law Society itself) and illustrates the advantages of the professional body being directly involved in professional liability insurance. It is obviously too soon to know if the change will be effective in reducing the claims against the insurance fund, but the important point is that insurance information led to the change and that the direct involvement of the professional body made it much more likely that there would be a move to encourage competence, and thus to reduce the insurance claims.

There may even be pressure on the professional body to respond in some particular way. But it is unlikely that the professional body in that case would respond as did the Law Society when insurance information led directly to an instruction from convocation to the Professional Conduct Committee to amend its rulings to make the maintenance of certain records mandatory as a way of reducing one class of claims against the insurance fund.<sup>91</sup> The greatest impact of the incentive provided by the fact that the professional body is the insurance carrier will be obtained if insurance is compulsory. Here again the Law Society supplies a good example. If the members have no choice but to pay whatever the profession levies, the pressure to reduce this cost will be strongest.

It is difficult to argue that every profession should so organize its affairs that it is subject to the greatest economic pressure to improve the level of performance in the profession. The fact is that, short of the threat of a loss of control, there are few pressures operating on the profession generally.

## 8. Conclusion

None of the professions have advanced very far along the road towards a really effective programme to ensure the competence of all of its members. Some have gone farther than others in particular aspects of the problem. The most difficult issue to face is the setting of standards of competence. Yet even though this is difficult, there are situations where standards can easily be set. It is important to realize that, while the effective control of incompetence is not an easy task to undertake, it is not necessary to start with the perfect scheme. There are, as have been mentioned in this paper, areas of practice where standards can easily be set. Where this is so, the job of setting standards should be undertaken. If this is done the two things follow; first, the mere setting of a standard inevitably raises the level of performance of the profession and, second, as standards are set it becomes easier to set more. Standards can, therefore, be set in areas where it has become clear that there are problems of competence, where insurance claims are high, or where client complaints are frequent. It must be remembered that there are problems with standards: standards should be reasonable and should not unduly inhibit innovation.

This indicates the second important step that has to be taken. This is the development of methods of obtaining information on incompetence. This has to include knowledge of those who are incompetent, in what areas of practice and in what forms of practice.

This knowledge can be supplied by several of the existing sources of information, but may have to be extensively supplemented through a peer review process. The necessary knowledge must extend to include the steps that are most likely to ensure competence generally in the profession and in the particular person who has been identified as incompetent.

Once the profession has determined on these two steps, the rest of the programme follows more or less automatically. It will be obvious that the standards applied have to be variable, depending on the issue that has to be decided. It will be obvious that there has to be a very wide range of sanctions to deal with the different cases that are likely to offer a wide range of factors. It will be necessary to realize that continuing education has two different concerns--concern for the individual and concern for the profession as a whole--and that these involve very different problems. Continuing education as an aspect of the certification (or re-certification) process presents some difficult problems. Of over-riding importance must be the realization that the profession is the only body to provide answers to all the questions that have to be asked. It alone can set standards and apply them. It alone can assess the importance of the facts about the extent of incompetence. Finally, it alone can determine what should be done to maintain the competence of its members.

FOOTNOTES

1. I am particularly grateful for the help that I have received from my colleague, Professor Barry Reiter, in preparing this paper.

In addition, my work would have been easier if I had access to the material put together for the Conference on Quality of Legal Services (held on October 26-28, 1978) at an earlier date. These materials contain copies of articles, papers and studies that cover many, if not most, of the issues raised in this paper. Unfortunately, this material came to me too late for extensive reference and discussion in this paper. The scope of those materials indicates that the legal profession is considering all the problems raised in this paper.

2. Barry J. Reiter, Professional Discipline as a Means of Assuring Continuing Competence in the Professions, Working Paper #11 prepared for the Professional Organizations Committee (1978).
3. Edward P. Belobaba, Civil Liability as a Continuing Competence Incentive, Working Paper #9 prepared for the Professional Organizations Committee (1978).
4. See Reiter, op. cit.
5. Ibid., for example, p. 55.
6. Idem. (and further references there cited).
7. Ibid., p. 136.
8. Belobaba, op. cit., p. 32, and references there cited.
9. Reiter, op. cit., p. 136.
10. Ibid., p. 55.
11. Belobaba, op. cit., p. 9 (General Test), p. 17 (Accountants), p. 32 (Architects and Engineers), pp. 49 and 65 (Lawyers).
12. As a technical matter, it may be the case that evidence of such a pattern of conduct may be inadmissible for the purpose of deciding the issue of negligence in any particular case.
13. Professor Belobaba discusses the development of strict liability for the failings of engineers and architects. Belobaba, op. cit., p. 33 and references there cited.
14. See, for example, the position of the S.E.C. in regard to standard setting in accounting. Securities and Exchange Commission, Report to Congress in the Accounting Profession and the Commission's Oversight Role (July, 1978), pp. 245-305.



15. J. Robert S. Prichard, "Professional Civil Liability and Continuing Competence", in Klar, Studies in Canadian Tort Law, 1977, p. 383. See also, Belobaba, op. cit., p. 61 and in his note 234, on the problem of "defensive auditing".
16. An analysis of the patterns of complaints by clients against lawyers, accountants and architects discloses that a significant number are concerned with fees. The fact that there are comparatively far less in respect of engineers is explicable by the very different pattern of practice of engineers. See, Reiter, op. cit., pp. 349, 433, 492. All the professions regard fee disputes as outside the scope of the profession's disciplinary jurisdiction, though in most cases an attempt will be made by the professional body as mediator to have the matter resolved amicably. An investigation of a complaint about fees may, of course, disclose other grounds for a charge of incompetence.
17. This is discussed by Prichard, op. cit., p. 383, in regard to medical malpractice. This point will be further elaborated, infra, at note 63 in respect of the wider issue of standards raised by the process of peer review.
18. Examples of the standard of disclosure (in an area not involving innovation) that may have to be met are provided by the C.I.C.A. Handbook where draft letters to clients are set out. See, for example, Comments on Unaudited Financial Statements, s. 8100.
19. The College of Physicians and Surgeons of Ontario, Annual Report, July, 1978, p. 19: "To be labelled as unacceptable, there would need to be examples of a performance that was dangerous or harmful, useless or neglectful".
20. Reiter, op. cit., p. 136.
21. Ibid., p. 215.
22. Ibid., p. 187.
23. Ibid., p. 121. The I.C.A.O. also publishes details of cases where a member has been disciplined.
24. Law Society of Upper Canada, Communiqué, September 15, 1978.
25. S.O. 1974, c. 74, s. 6(2). This section is set out in Reiter, op. cit., p. 184.
26. Supra, at note 19.
27. Appendix A to the Research Directorate's Staff Study, "History and Organization of the Accounting Profession in Ontario" (1978); Appendix B to the Research Directorate's Staff Study, "History and Organization of the Legal Profession in Ontario" (1978); Appendix C to the Research Directorate's Staff Study, "History and Organization of the Architectural Profession in Ontario" (1978); Appendix D to the Research Directorate's Staff Study, "History and Organization of the Engineering Profession in Ontario" (1978).
28. See, infra, section 6B of this Working Paper, p. 66 ff.

29. Some of the issues in adult education and some of the literature on it are collected by Selma Colvin in Appendix A to this Working Paper, pp. 1-5 and references cited therein.
30. Letter from the Treasurer to all Members, dated July 6, 1978.
31. Reiter, op. cit., pp. 120-122.
32. Ibid., p. 44.
33. Law Society of Upper Canada, Communiqué, September 15, 1978.
34. Supra, at note 11.
35. Reiter, op. cit., p. 26.
36. As is the case with members of the A.P.E.O.
37. Reiter, op. cit., pp. 459-479.
38. Supra, at note 33.
39. Belobaba, op. cit., p. 43.
40. The arrangement made with the National Programme Administrator of the engineers and architects insurance scheme does not provide information on the names of those who have made claims on the insurance cover. Belobaba, op. cit., pp. 42-43. The Law Society operated under the same constraint until it became the first loss insurer. See: Intermediate Briefs submitted by the Law Society of Upper Canada, January 11, 1978, "Continuing Competence", p. 7.
41. Reiter, op. cit., pp. 25-28; Belobaba, op. cit., pp. 8-9.
42. Belobaba, op. cit., pp. 16, 46-48; Reiter, op. cit., pp. 27-28.
43. Donald N. Dewees, Stanley M. Makuch, Alan D. Waterhouse, An Analysis of the Practice of Architecture and Engineering in Ontario, Working Paper #1 prepared for the Professional Organizations Committee (1978), especially Chapter III.
44. Reiter, op. cit., p. 28.
45. See, for example, the extensive programme of in-house training organized by the accounting firm of Arthur Anderson & Co. See Appendix B to this Working Paper.
46. An interesting example of the same kind of problem causing difficulties in the context of actions for damages for professional negligence concerns the issue of when the limitation period (the time within which the action must be brought) begins to run. Does this time run from the date of the careless act, or from the date when the existence of a careless act first came to the knowledge of the client? See Belobaba, op. cit., pp. 34-36 where that issue is discussed in connection with the practice of engineering and architecture.

47. Ibid., pp. 51-53.
48. The failure of the department to notify the professional body of incompetence may be contrasted with the response that these bodies would make were the member to be charged with an offence, for example, fraud.
49. Professor Belobaba discusses the problems associated with actions by clients in regard to each of the professions. Apart from the problems associated with the large business client, an important factor in determining the frequency of claims against the insurance carrier is the proportion of individuals as clients in each profession. Belobaba, op. cit., pp. 8, 17, 31 and 46.
50. Ibid., pp. 20, 30 and 52.
51. Reiter, op. cit., p. 130. The rule requiring members to report, Rule 211, provides in part:

"... a member shall bring to the attention of the professional conduct committee any apparent breach of these rules or any instance involving or appearing to involve doubt as to the competence, reputation or integrity of a member..."
52. Ibid., p. 135.
53. Supra, at note 35.
54. See, for example, Reiter, op. cit., p. 103, in respect to the disciplinary function of the Law Society and p. 182 in respect of discipline by the A.P.E.O. A very recent public statement by an official on the competence of a member of a profession is found in the judgement of Bouck, J. of the B.C. Supreme Court in Brisseau v. Martin & Robertson Ltd. Judgement delivered September 12, 1978. A copy of the judgement is reproduced in Appendix C to this Working Paper.
55. Supra, section 3 of this Working Paper, p. 17ff.
56. The I.C.A.O. has a form of peer review that operates in this way. The Professional Conduct Committee can authorize a review of a member's practice once disciplinary proceedings have been started as a result of one of the more usual methods of obtaining information.
57. This has been the findings of the peer review activities of the Corporation of Physicians and Surgeons of Quebec, as related in an interview with Dr. H.W. Henderson, Deputy Registrar of the Ontario College of Physicians and Surgeons.
58. Law Society of Upper Canada, Communiqué, September 15, 1978.
59. The College of Physicians & Surgeons of Ontario, Annual Report, July, 1978, p. 18 and 19.
60. Supra, at note 9.
61. Law Society of Upper Canada, Communiqué, September 15, 1978.
62. Rondel v. Worsley, [1969] A.C. 191. Belobaba, op. cit., p. 50.
63. This point is discussed by Tuohy and Wolfson "The Political Economy

of Professionalism: A Perspective," in Four Aspects of Professionalism, (Ottawa: Consumer Research Council, Canada, 1977).

64. The financial aspect of medical care was the principal factor behind the introduction of Professional Service Review Organizations, (PSRO) by the Department of Health, Education and Welfare in the U.S.A. There are differing perceptions of their effectiveness and value, but the primary purpose of the PSRO was to ensure that the payer for medical services, the U.S. Federal Government, got value for money, not that the medical profession was competent. It would, of course, be the case that a concern for value for money would do much to ensure competence. On the PSRO programme generally, see, Appendix D to this Working Paper.
65. This has been further discussed supra, at notes 41-47.
66. Supra, at note 30.
67. See, supra, note 27.
68. Supra, at note 32.
69. Keeton, "A Framework for Thinking About Law Related Learning," American Bar Association, Quarterly Legal Services and Continuing Legal Education. Chicago, 1975, and information supplied by Professor Reiter from a meeting with Arthur Osteen, Assistant Director of the American Medical Association, August 30, 1978.
70. See supra note 30.
71. Supra, after note 62.
72. The student serving the period of pre-entry practice is bound by the same requirements as the professional for whom he works, see, for example, the form of agreements signed by the student-at-law when entering the period under articles.
73. Special problems that may be encountered by the employed professional are not considered. The profession embarking on any universal mandatory programme has to decide which of its members will be tested.
74. See, supra, section 6B(i) of this Working Paper, pp. 67-70.
75. Examples of jurisdictions where failure to qualify for re-certification leads to suspension from the profession are found in note 80 (infra).
76. See, for example, Appendix D to the Research Directorate's Staff Study, "History and Organization of the Engineering Profession in Ontario" (1978).
77. The regulations governing specialist and consulting designations in the engineering profession provide for the re-designation of the members every five years after the member has satisfied certain requirements. The failure of a member to satisfy these requirements results in the loss of the specialist or consulting designation but does not affect the member's rights to practise as an engineer. (O. Reg. 59/73 ss. 5 & 6) and p. 245 (O. Reg. 60/73 ss. 4 & 5).



78. The ethical requirement that an engineer not practise beyond his area of competence does not prevent him practising beyond his area of qualification but within the area of his competence. A.P.E.O., Code of Ethics s. 6(b).
79. A significant number of complaints laid before the Practice and Ethics Committee of the A.P.E.O. relate to allegations that a member was using a specialist designation unlawfully. Reiter, op. cit., pp. 459-479. But this fact does not indicate that there were disputes as to the competence and right to practise of the member complained against.
80. A summary of the jurisdictions and professions is found in Colvin, op. cit., Appendix A to this Working Paper.
81. An outline of one such programme as applied to engineers in Iowa is found in Appendix E to this Working Paper.
82. The Iowa plan (see Appendix E) has a sliding scale of course-hour requirements based on the number of hours of engineering practice in a year: the higher the number of hours in practice, the lower the course-hour requirement. Obviously, refinements like this are available but the amount of time required over a year is still usually very small.
83. Belobaba, op. cit., pp. 42-45.
84. One example from among many arguments along similar lines may be taken from Milton F. Lunch, "Continuing Education -- Boon or Boondoggle," Consulting Engineer, (June, 1978), p. 326. Other references discussing this issue are found in Colvin, op. cit., Appendix A to this Working Paper.
85. See Colvin op. cit., Appendix A to this Working Paper.
86. This kind of specialist designation is, for example, provided by membership in the American Society of Quality Control Engineers. Quality control is not an official specialist designation. Information supplied by David R. Reyes-Guerra, Executive Director, Engineers Council for Professional Development, to Professor Reiter.
87. Reiter, op. cit., p. 161.
88. Ibid., Part H, and Peter Aucoin, "Public Accountability in the Governing of Professions: A Report on the Self-Governing Professions of Accounting, Architecture, Engineering and Law in Ontario," Working Paper #4 prepared for the Professional Organizations Committee (1978).
89. Supra, at note 40.
90. Law Society of Upper Canada, Communiqué, September 15, 1978.

APPENDIX A

ON CONTINUING EDUCATION

by

Selma N. Colvin





## I CONTINUING EDUCATION

### I.1 Elements of Adult Learning

#### I.1.1 Important features

The proposal of continuing education as a means to ensure competence assumes that exposure to courses and educational materials will result in learning. J.R. Kidd<sup>1</sup> describes what we know about learning this way:

"We do know that learning means change; that learning is active, not passive. The learner opens up himself, he stretches himself, he reaches out, he incorporates new experiences, he expresses or unfolds what is latent within him."

Although Kidd sees learning as requiring a commitment from the learner, he suggests that there is a natural drive in human beings to learn and that the main task is to provide the climate, atmosphere, freedom, stimulus, self-confidence, and self-discipline in which learning is promoted.<sup>2</sup>

According to Kidd the three R's of adult education are relevancy, relationship and responsibility. Unless the subject matter is relevant to part of his life and the adult understands how it relates to his experience, to what he is, and to what he knows, there will be no stimulus to learn it. To benefit from adult

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1. J.R. Kidd, "Adult Learning in the 1970's," Robert M. Smith, (ed.), Adult Learning: Issues and Innovations, (Northern Illinois University, 1976) at p.14.

2. Ibid.

education, the learner must assume the responsibility to question, to try to understand and do something about the consequence of the study, in other words, react to the information so acquired.<sup>3</sup>

#### I.1.2 Individual differences in learners

Because continuing professional education like the education of any other large group is directed at a non-homogeneous group of learners, individual differences in those learners must be considered. A basic difference existing among individuals is their natural mental capacity to learn. To some extent this is a non-issue in the Professions because all present members of the Professions have demonstrated a capacity to learn at least the minimum amount necessary to gain admission. Clearly, changes in individual learning capacity caused by aging or illness must be considered in any proposed adult educational programme.

Although Kidd states that evidence is now convincing that no serious decline in learning capacity need occur before 75, and if good health remains, to some later date,<sup>4</sup> aging may result in increased resistance to change and an increased importance of feelings.<sup>5</sup> Such changes may require a restructuring of courses with older learners as participants. Diminution in learning capacity based on illness must be dealt with on an individual basis.

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3. Ibid., p.16

4. Ibid., p.17

5. Ibid.

Different approaches to learning<sup>6</sup> may have greater or lesser appeal to different learners. Any continuing education programme should be prepared to vary the learning approach in the hope of increasing the value to participants.

Lastly, and most importantly, different styles of learning are more effective for some individuals. Kidd states:

"It is probable that some persons will learn more productively with one style than another, and that instead of making it necessary for every adult to adopt an identical style, learners will be encouraged to try out and find styles that suit them."<sup>7</sup>

Persons who can effectively learn from reading books and journals might waste their time taking courses. Whereas attendance at conferences or lectures is a valuable learning experience for one person, it may be useless to the next. Clearly, any mandatory educational programme which does not permit flexibility of learning style will be, at best, inefficient, and at worst, useless to those who learn best using another style.

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6. See Kidd, Ibid., p. 22, where learning approaches are described under the following headings: experiential, aesthetic perspective, operant approaches, information processing, motivation via expectation or expectancy theory, neo-instincts and theoretical foundations based on the natural sciences.

7. Ibid.

## I.2 Types of Learners

Policy with respect to continuing education for the Professions can be considered only in the light of the types of learners who are members of these Professions. Houle describes types of learners<sup>8</sup> and his description is useful for understanding the membership of the Professions in terms of learning motivation. A minority in each profession may be classed as "Innovators." They lead the profession in research, conduct their own independent learning through reading and attendance at presentations of their own choice. They tend to ignore or be contemptuous of formal programmes of continuing learning. A second group, Houle titles "Pacesetters." This relatively small group support and give leadership to group learning and support new technologies not for the benefits of learning itself as is the case with the "Innovators", but to prove to themselves and others that they are part of the inner circle. They learn, but leadership is their main goal. The majority of professionals Houle describes as "Adopters" who participate in group learning from a sense of obligation and respond to examples of the "Pacesetters." The fourth group defined are the "Laggards" who do not participate in continuing education saying such education costs too much money and time. Houle's comment on

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8. Ibid., p.59.

this excuse was: "They do not realize that ignorance is even more expensive." A further comment might be that the public and the professions can no longer afford the luxury of "Laggards." Houle describes a further group as "Reinforcers" made up of professors, association executives, researchers, and editors who work with learners but who may be drawn from any of the previous four categories including "Laggards."

Policy respecting continuing education cannot merely assume that more learning for a greater number is better. Each subgroup has distinctive educational requirements which must be considered if the whole profession is to advance. However, as Houle points out, "the two chief concerns of organized continuing education today in all occupations are the same - how to speed up the learning of the majority 'Adopters' and how to reach the 'Laggards.'" <sup>9</sup>

## II MANDATORY CONTINUING EDUCATION

For the purposes of this report, mandatory continuing education will be discussed under headings of selective mandatory continuing education and universal mandatory continuing education. However, because the policy no longer allows professionals a free choice of whether or not to participate, it is necessary to consider first whether the education forced on participants will in fact contribute to improved competence or whether there is a need for further evidence of competence.

In his paper "Learning, Compulsion and Professional Behaviour", Alan M. Thomas, questions the benefits of compulsory learning.

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9. Ibid., p. 66.



"What is happening is that the law is being used either directly by the securing of special legislation on behalf of the professional association, or indirectly by means of a threat, to support an educational system which extends compulsory activity into adult life in an unprecedented manner. While the reason for such extension can be argued in terms of public protection, and even of the protection of the profession against the more slothful of its members, the real question is whether such compulsion will achieve the stated ends." 10

Although the programmes are entitled compulsory education or compulsory learning, all that can be guaranteed is compulsory attendance. Paul A. Wolkin, Executive Director of the American Law Institute - American Bar Association Committee on Continuing Education challenges the value of such attendance.

"Few will dispute that mere attendance at CLE courses will not necessarily cure lack of preparation or enhance competence. Presence is not evidence of learning since attendance may be passive or active. What is heard in the classroom, without advance preparation, classroom participation, review, and application is unlikely to be retained." 11

Compulsory programmes which result in attendance without learning may mislead the public into believing that attending professionals are maintaining competence. Furthermore compulsory

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10. Alan M. Thomas, "Learning, Compulsion and Professional Behaviour," in The Professions and Public Policy, eds. Philip Slayton and Michael J. Trebilcock (Toronto: University of Toronto Press 1978).

11. Paul A. Wolkin, "On Improving the Quality of Lawyering," (1976), 50 St. John's Law Review 523 at p. 529.

programmes requiring attendance may be a waste for those who learn better without attendance by relying on other educational sources. Lastly, compulsory attendance may well raise resentment in the large percentage of professionals who voluntarily maintain competence either by voluntary attendance at courses or by other means. Such compulsion may well interfere with the desire to learn this group would otherwise exhibit voluntarily. The risk of compulsory programmes is that one interferes with the learning of the majority to catch the minority whose reluctant participation will have little lasting value.

"You cannot by law compel an individual to use all of his or her wit, intelligence, humanity and expertise in the excellent practice of a profession. Such excellence must be won, it must be willed and it must be deserved. All of that of course applies even more to the matter of learning about how to perform that profession." <sup>12</sup>

John Ohliger in his discussion of life-long learning made this comment.

"This trend toward compulsory continuing education is disturbing to many adult educators. Since the voluntary nature of participation has long been an established feature of adult and continuing education. There is some sentiment that the idea of 'lifelong learning' has become a popular cliché and the concept is growing in power due to social pressure rather than actual need." <sup>13</sup>

Ohliger, in a later article, <sup>14</sup> presented the view that compulsory lifelong adult education does not guarantee permanent competence; it only guarantees a feeling of permanent inadequacy.

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12. Thomas, op. cit., n. 49

13. John Ohliger, "Life-long Learning - Voluntary or Compulsory (1968), 17 Adult Education 124.

14. John Ohliger, "Is Life-long Adult Education a Guarantee of Permanent Inadequacy", (1974), 7 Convergence 2:47.

Apart from the individual learning difficulties that may result from compulsory learning, such programmes may also create administrative difficulties. With mandatory programs the problems of planning meaningful educational experience will become much more acute. There will be a greater need for a sufficient quantity, variety and quality of programmes.<sup>15</sup> There is a danger of reduction in the quality of courses when the programmer no longer has to compete for the attention of the learner.<sup>16</sup>

The effects of compulsory education on programming will be greater in some professions than others. For example, it may be possible to generate quality courses for the two thousand (approx.) members of the Ontario Association of Architects but it would be an impossible task to develop meaningful courses for the forty-thousand (approx.) members of the Association of Professional Engineers of Ontario. Wolkin,<sup>17</sup> makes this same comment with respect to the effect of mandatory programs in law.

"How will they affect existing CLE programs? If only 5, 10 or even 20 per cent of the bar attend the CLE programs now offered, can a mandate to educate 100 per cent be met adequately in terms of curriculum planning, study materials, and planning? Can a program of large dimensions be operated qualitatively,

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15. Melissa Mickey, "Problems and Programs in Continuing Education," Working Paper No. 1, Medical Library Association, (Chicago, Ill., 1974); citing Science and Technology, April, 1969.

16. See Thomas, op. cit., n. 49.

17. Wolkin, op. cit., n. 50 at p. 530.

even under the best circumstances? What may well happen is that 10 or 15 hours a year of required professional education for all will entail big business for some CLE entities, rote programming for others, and an exercise in frustration for most. Mandatory CLE is not likely to facilitate significant educational programming for those who will undertake it, and the result may well be a deterioration in the quality of courses now available in many states."

It is clear that the usefulness of continuing education as a means of maintaining competence is strongly dependent on the availability of quality courses. A sacrifice of this quality to reach the reluctant incompetent professionals must be questioned.

A further and more practical problem of universal compulsory education for a profession is the financial cost of administration. Smaller memberships suffer from a lack of finances to present quality programs. Larger memberships, which may be able to generate the financial resources through fees, face high administrative costs in planning courses and recording participation.

Although it is generally anticipated that the continuing education courses would be self-supporting, it must be considered whether or not public funds might be used to support smaller professions or specific courses. Although it is unlikely that the public would be expected to subsidize professional courses directly, it is likely that the public will pay for any universal programme indirectly through increased fees as professionals try to recoup direct and indirect costs of forced participation.

Discussion of the administrative difficulties with compulsory

continuing education assumes that compulsory participation can be legislated whether by tying participation to membership in the professional association or to the licence to practise. If participation is linked to membership in a voluntary association, the association must face the possibility that some members may resign rather than participate.

Universal mandatory continuing education requires the establishment of a programme with defined criteria. The standards will be superficial and inadequate unless the number of hours of required participation is expected to have lasting benefits.

On the other hand, requirements should not be so extensive that they interfere with normal practice. The subject matter should relate to the professionals' needs with sufficient options to permit choices in specialized areas. If compulsory education programmes are intended to enhance competence, it may be necessary to supplement attendance statements with testing procedures to determine the extent to which this goal is achieved.

It may be useful at this point to summarize the foregoing comments on compulsory continuing education and determine if they apply equally to a selective programme. Compulsory attendance may be counter-productive to learning and therefore not contribute to any overall enhancement of competence. A universal programme which does not provide for alternative

modes of learning may be useless for those who learn better by other means. Those professionals who have assumed their professional responsibility to keep competent voluntarily may resent and resist compulsory programmes. Maintaining quality programmes for large numbers of compelled participants may be difficult.

Compulsory attendance for professions with large and varied memberships will create severe administrative difficulties.

Will selective compulsory education programmes suffer the same problems? In this report the term selective is used to discuss a small group of professionals chosen from the general population. This group would be selected for mandatory continuing education as a form of sanction for performance identified elsewhere as incompetent or as a condition to qualification for a specialty designation.

The same problem exists as to whether or not participants so compelled to attend will benefit from the education offered. Because it is important for both groups to show that they have benefited from the educational exposure, it may be necessary to incorporate testing procedures into the programme.

Both groups may be more eager to participate in continuing education than the average professional. The specialization applicant sees personal benefit from increasing his knowledge about the specialty. The designated incompetent



should realize the risk of his continued ignorance. The key to success in appealing to these groups over and above the compulsory feature lies in programming. Specialty programmes must enhance the skills of the participant. Re-education or refresher courses must be directed at the weakness that led to incompetence. It is important to recognize when re-education is irrelevant for those identified as incompetent. If the incompetence is owing to lack of diligence, very little can be accomplished by course attendance.

While the possible resentment and resistance of large numbers of professionals must be considered in universal programs, the attitude of participants in selective systems may not be as important so long as some other indicia of learning, such as testing, is available. Such selected participants have either shown themselves to be incapable of voluntarily assuming responsibility for their continued competence and must be compelled by some authority to do so, or they are desirous of receiving an additional certification by some authority which is entitled to establish criteria which reflects superior knowledge.

### III COMPETENCE RELATED PROGRAMMES

#### III.1 Canadian Professions

The following is a summary of the extent of activity in continuing education by the professions across Canada:

"A recent survey of national and provincial groups in Canada representing seven professions revealed that of the 33 groups indicating sponsorship of continuing education courses, one-third of them commenced such courses since 1970. Only three bodies indicated they did not encourage further education for their members.

Even those groups actively engaged in professional development admit that they are still concerned about members who do not voluntarily participate in workshops and seminars. These members are generally the ones most in need of refresher training. They are candidates for incompetence.

Many professional bodies therefore are turning to a system of required or mandatory professional development to guarantee a minimum of refresher training for all members. Of those surveyed, 52% have either implemented required professional development, are in the planning stages of introducing it, or are seriously considering it. Forty-one per cent are not studying this possibility and a further 7% either feel they are too small to warrant such a program or that they lack the powers to enforce it.

Currently three professional bodies have implemented required professional development in Canada. The College of Family Physicians of Canada has had mandatory requirements since 1954. Within the last two years the Manitoba and Alberta Dental Associations have adopted a mandatory educational program.

Each body tailors the requirements to suit its particular needs. For example, the Manitoba Dental Association requires that members obtain 250 points in a three year period, whereas the Alberta Dental Association demands 500 credit points within five years. Points are given for attendance at approved courses, at technical conferences and for writing articles on dental health.<sup>18</sup>

### III.2 U.S. Trends

As noted briefly above, both accountancy and law are following the strong lead set by medicine in the United States in establishing required professional development as a condition for professional association membership or licensure.<sup>19</sup> The programmes have resulted from a recognition of the potential benefits of continuing education and efforts to present highly visible programmes in response to current public concerns over incompetence. The programmes have generally ignored the negative effects of mandatory learning as well as any extensive inquiry into the actual existence of competence problems to substantiate

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18. Gloria Quinlan, "Professional Competence - No Lifetime Guarantees (1976), 12 Canadian Vocational Journal 1:7 at p. 8.

19. See Douglas H. Parker, "Periodic Recertification of Lawyers: A Comparative Study of Programs for Maintaining Professional Competence," [1974] Utah Law Review 463 at p. 473.



APPENDIX B

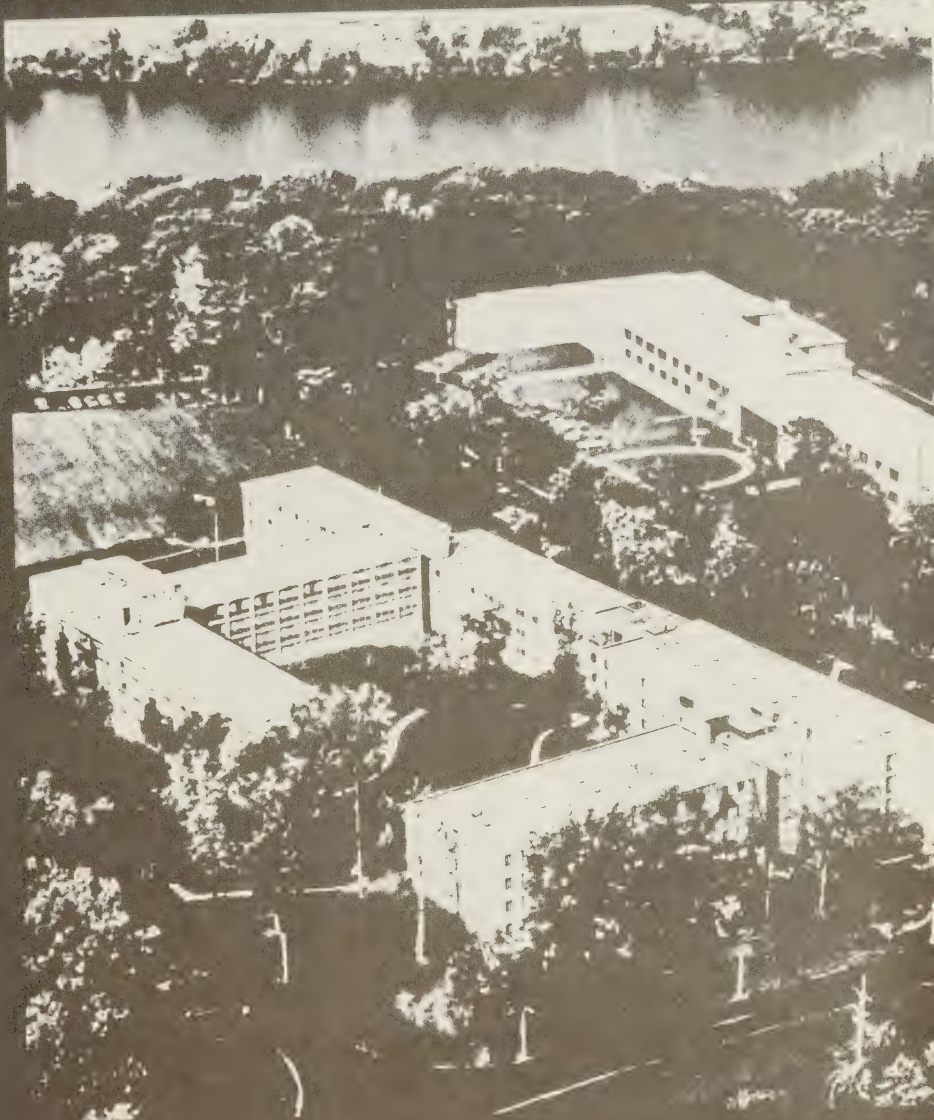
Professional Training and Development  
Program for 1978

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# Professional Training and Development Program for 1978



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## Program for 1978

*This catalog summarizes courses in the 1978 Training and Professional Development Program. While centrally prepared courses for local-office use are listed, no attempt has been made to illustrate all of the training programs conducted at the operating-office level because of the great variety in topics. The monthly schedule of Firmwide and regional meetings, schools and seminars provides the name of the person responsible for a specific course and includes changes in dates and locations.*

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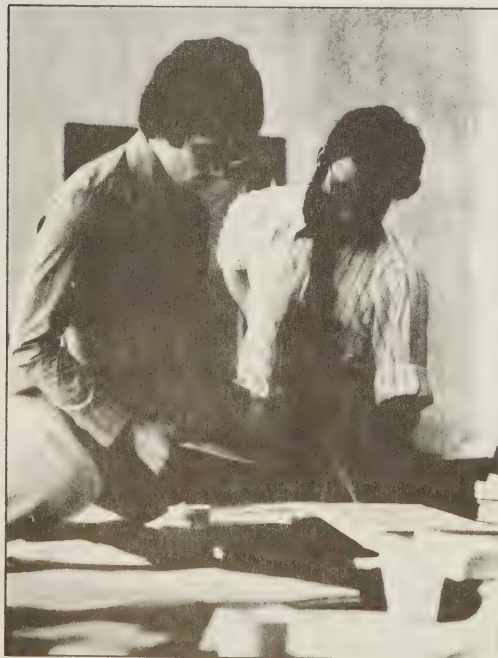
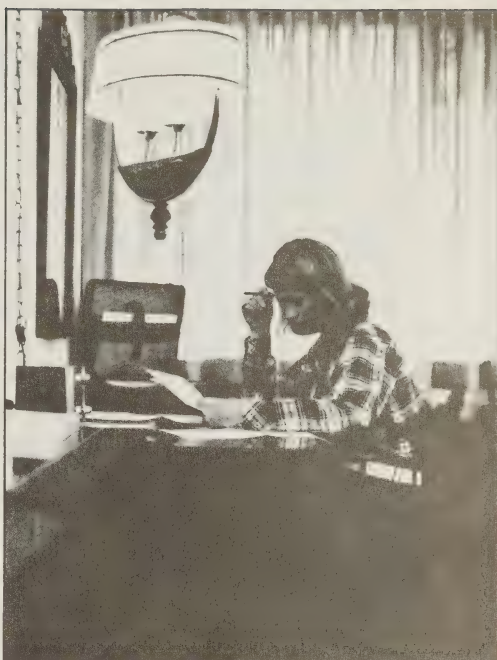
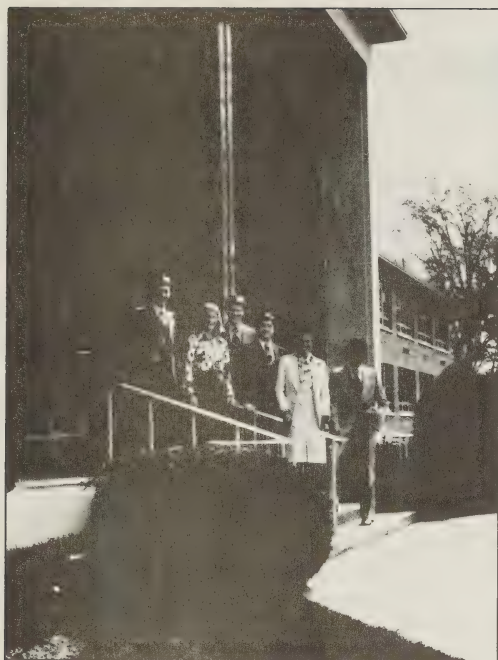
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# INTRODUCTION

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Our training and development programs are designed with the broad objective of increasing competence for the mutual benefit of our personnel and our clients. Our programs cover a professional's entire career with us starting immediately upon employment. Training focuses on the area in which an individual will work and on matters that will be encountered immediately after training. Objectives, content, timing and prerequisites of each course, as well as the overall programs, are determined by the Vice Chairman of the practice area involved. For example, the U.S. Tax Training Profile is a comprehensive guide for technical and industry training of U.S. Tax Division personnel at all levels. Combining centralized schools and local training programs, the Profile identifies and organizes the training effort necessary to ensure the broad range of technical competence required of all tax personnel. The core program for inexperienced tax staffmembers is rather specific and uniform.

A more flexible program is offered for seniors, managers and partners to meet the unique and changing needs of the individual and the operating office. The Audit and the Administrative Services Divisions have programs for similar guidance and control.

## **Training of New Employees**

It would be unfair to the individual and our clients to expect a person to work for any significant period of time before commencing formal training. The majority of our new professional staffmembers gain their first experience on audit engagements; hence, they immediately attend our Firmwide Audit Staff Training School. After varying amounts of experience on the audit staff, some of those persons with an interest in our tax or administrative services work transfer to one of these divisions. Some newly employed staffmembers who have specialized training for, or an especially strong interest in, taxes or administrative services go directly into these divisions. Most of the people entering these divisions, either directly or from the audit staff, immediately attend basic training courses such as the Basic U.S. Tax School or the Administrative Services Staff Training School. Those who have unusual educational or experience qualifications may go directly to more advanced courses.

## **Training of Experienced Personnel**

At certain points in a person's professional career, it is possible to make specific predictions about the training that will be received. When an individual attains senior-accountant status or is promoted to manager, for example, he or she attends the Senior Development Course and, later, our New Managers Meeting. Generally, however, it is a person's experience, competence and other qualifications that will determine the nature and timing of the courses attended.

## **Where Training Is Done**

Substantially all of our Firmwide training for personnel in the United States and Canada, as well as the advanced training for experienced personnel worldwide, is conducted at our Center for Professional Development in St. Charles, Illinois. The Center's two buildings are located on 55 acres and have meeting and living accommodations for more than 650 people. The educational building has more than 50 meeting rooms with a capacity for groups ranging from a few persons to 75 people. There is also a large auditorium that can seat more than 600 persons; it can be divided into four rooms that can each accommodate up to 150 people. All rooms are connected to a central audio and closed-circuit television network. The Center's video studio has an entire range of broadcast-quality color equipment to make live broadcasts to the meeting rooms and to produce videotape cassettes for our training programs. All operating offices have standard video cassette playback units to use the tapes produced at the Center for local training programs and for individual self-instruction.

Operating offices are in an excellent position to determine the individual needs of their professional personnel, the special needs of the office and the training programs required to meet those needs. Local offices can respond quickly to emergencies and unique problems. There are wide differences in the problems and experience of individuals, and programs must be devised that can be tailored to these individual needs. Consequently, the operating offices perform much of the training with the aid of centrally prepared, as well as locally devised, material.

## People Who Conduct Our Training

Our experienced operating personnel write training courses and give instruction. Schools, seminars and workshops use the case-study method of instruction wherever possible. Training techniques include group discussion, simulation and hands-on experience supplemented by workbooks and videotapes, films and audiotape instruction.

Careful preparation of course material, use of visual aids, instructor's manuals and pretraining of instructors enhance the teaching ability of the operating personnel acting as instructors. The customary ratio in our training courses is one instructor to six or seven participants.

## Continuing Professional Education Requirements

In the United States, an increasing number of states have adopted requirements making continuing education mandatory for an individual to maintain the right to practice as a certified public accountant. The SEC Practice Section of the AICPA Division for CPA firms has adopted a provision requiring all professionals of a member firm who reside in the United States, including non-CPAs, to participate annually in continuing education programs. These states and the SEC Practice Section have basically followed model provisions suggested by the National Association of State

Boards of Accountancy; however, minor differences in the laws and regulations exist among the regulatory bodies.

The contact hours shown for each program listed herein have been computed so that participant attendance will comply with the standards and qualifications proposed by NASBA. Before claiming credit as a participant or instructor at a specific meeting, the Managing Director — General Practice Training should be consulted regarding the regulations of the appropriate agency to ensure that the subject and number of hours qualify. Only the hours actually attended should be reported; late arrival, early departure and other absences are to be excluded. Our courses are frequently revised, and it is advisable to recompute the contact hours after the meeting.

A more detailed description of content and learning objectives is given in course catalogs on file in each office and in the school announcements sent in advance to each participant. Regulations require that certain data regarding attendance, course content and instructors be retained for five years. This information is kept on file and is available to participants upon request from the Managing Director — General Practice Training at the Center for Professional Development in St. Charles, Illinois, for centralized schools and from the local-office Directors of Training for programs conducted in the operating offices.



TRAINING FOR AUDIT PERSONNEL



# ACCOUNTING

## Basic Accounting Course

Provides new audit staffmembers with a basic knowledge of bookkeeping and accounting. Offices in countries in which business and accounting education at the university level is not prevalent primarily use this program.

Topics covered are the accounting equation, analysis of transactions, ledger posting, sales and cost of sales, journal entries, cash and accrual accounting, control accounts and methods of valuation. The course devotes a separate section to cost accounting. A third section includes accounting theory and an introduction to auditing. Each section of the course includes an introductory lecture with visual aids, reading assignments in a standard college-level accounting text and problems to be completed by the participants. There are additional problems and reading assignments for those wishing to cover more advanced material in each section.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 200

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Intermediate Accounting Course — U.S.

Designed for newly employed staffmembers with above-average academic records but without accounting majors. Course provides, at the intermediate and advanced levels, sufficient instruction in accounting concepts and usage of financial statements and reports to enable the participants to function productively in their early assignments. Interwoven with the accounting subjects are such auditing topics as the nature of auditing, collection of evidence in auditing and professional ethics.

Instructors are university professors in accounting and auditing. Study assignments include a variety

of university-level accounting and auditing textbooks and pronouncements of the AICPA and the FASB. There are extensive evening and weekend study and problem-solving assignments, frequent quizzes and midterm and final examinations.

Participants who successfully complete the course may (on request) have a recommendation sent to their state licensing board to grant nine semester hours of accounting credits toward the requirements to sit for the uniform CPA examination. This recognition is the result of an independent evaluation made under a program sponsored by the New York State Education Department and the American Council on Education.

**Prerequisites:** Satisfactory completion of a university-level course in elementary accounting or the Firm's Basic Accounting Course or Accounting and Business Fundamentals Course

**Advance Preparation:** None

**CPE Contact Hours:** 216

Dates	Location
June 12-July 15	Urbana



## ACCOUNTING

### Intermediate Accounting Course — Spanish

Designed for newly employed Spanish-speaking staffmembers with above-average academic records but without accounting majors. Course provides, at the intermediate and advanced levels, sufficient instruction in accounting concepts and usage of financial statements and reports to enable the participants to function productively in their early assignments. Interwoven with the accounting subjects are such auditing topics as the nature of auditing, collection of evidence in auditing and professional ethics. Special attention is given to accounting and reporting problems peculiar to South America.

Instructors are university professors in accounting and auditing who speak both Spanish and English. All instruction is in Spanish. Study assignments include a variety of Spanish translations of U.S. university-level accounting and auditing textbooks and pronouncements of the AICPA and FASB. There are extensive evening and weekend study and problem-solving assignments, frequent quizzes and midterm and final examinations.

**Prerequisites:** Satisfactory completion of a university-level course in elementary accounting or an equivalent course

**Advance Preparation:** None

**CPE Contact Hours:** 212

Dates	Location
June 5-July 7	Cali

### Cost Accounting Course

Offers instruction in cost accounting methods and procedures encountered in practice. Relates cost accounting theories to current auditing practice.

Topics include types of cost systems, material costs, labor costs, overhead costs, job order costs, process costs, standard costs (and related variance analysis) and direct costing.

There are visual aids for each module of the course that include notes from which the instructor develops lectures.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 40

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Objectives of Financial Statements

Acquaints personnel with Firm recommendations contained in *Objectives of Financial Statements*. This publication presents information concerning the basic purposes of financial statements and the necessary changes in accounting conventions to meet these objectives.

The course includes videotape and audiotape presentations and discussions led by the instructor.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 4

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## ACCOUNTING

### Client Inflation Clinic

Consists of a series of videotapes that present various aspects of the inflation problem. The clinic includes such topics as the use of client service teams, LIFO inventory problems and inflation accounting in the United Kingdom and Brazil. This series expands from time to time as current developments make additional topics appropriate.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 4

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.



### Inflation Accounting Course

Offers instruction in preparation, review and evaluation of price-level financial statements so that auditors can participate in the present program of experimental publication of corporate statements on the price-level-adjusted basis.

The course includes videotape lectures, small-group discussions and several case studies that illustrate the various points covered.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.





# AUDITING

## Introduction to Firmwide Audit Staff Training School — U.S., Europe and Australia

Acquaints new staff accountants with the Firm's approach to auditing and basic audit techniques and the Firm's ethical standards and prepares participants for attendance at the Firmwide Audit Staff Training School.

Topics covered include an overview of the audit process; the review, evaluation and testing of internal controls using transaction flow auditing; preparation of audit working papers; basic audit procedures and techniques including predictive auditing; usage of computers and sampling in auditing and Firm policies on ethical standards and staff evaluations. The course includes readings from Firm and AICPA publications, Firm-prepared videotape presentations and self-corrected posttests.

**Prerequisites:** Registration to attend Firmwide Audit Staff Training School

**Advance Preparation:** None

**CPE Contact Hours:** 32

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Firmwide Audit Staff Training School

Acquaints new staff accountants who have no auditing experience with the complete audit of a medium-sized manufacturing company using standard costing of inventories. Teaches the participant basic auditing techniques appropriate to such an audit and the reasons for performing them.

The school covers the typical steps performed in each of the major areas of an audit, with explanations of why those steps are performed. Techniques examined include transaction flow accounting; predictive auditing; random selection of transactions for testing; compliance testing;

substantive testing; preparation of working trial balances and analyses of selected accounts, confirmation procedures and reconciliation of account balances. The school also covers auditors' reports and financial statements and the auditing and business problems unique to the region in which the school is conducted. Emphasis is placed on the skills required of a first-year audit staff accountant.

Teaching methods include an elaborate practice set simulating a company under audit, with computer-prepared books, records and documents. Reading assignments provide background information for each topic. Participants work case-study problems after instruction given in the form of audiotapes and lecture books, role playing and group discussion. For each topic area, the faculty members conduct general critiques in small groups and specific critiques with each participant. The instructors evaluate and discuss the performance of each participant with him or her and prepare a staff evaluation form similar to that used for an actual audit engagement.

Participants successfully completing the school may request that a recommendation be sent to their state licensing board to grant four semester hours of auditing credits toward requirements to sit for the uniform CPA examination. This recognition is the result of an independent evaluation made under a program sponsored by the New York State Education Department and the American Council on Education.

**Prerequisites:** Participation in the Introduction to Firmwide Audit Staff Training School conducted in the local office

**Advance Preparation:** None

**CPE Contact Hours:** 84

Dates	Location
Jan. 3-14	St. Charles
June 5-16	St. Charles
June 19-30	St. Charles
July 17-28	St. Charles
July 17-Aug. 4	*Mexico City
July 31-Aug. 11	St. Charles

# AUDITING

## Dates

July 31-Aug. 18  
 Aug. 14-25  
 Aug. 21-Sept. 1  
 Aug. 28-Sept. 15  
 Sept. 4-15  
 Sept. 11-22  
 Oct. 2-13  
 Oct. 16-27  
 Dec. 6-22

## Location

\*Buenos Aires  
 St. Charles  
 Paris  
 \*\*São Paulo  
 Paris  
 St. Charles  
 St. Charles  
 St. Charles  
 Melbourne

\*In Spanish

\*\*In Portuguese

## Preparation of Audit Working Papers

Helps new audit staffmembers understand how to reflect the objectives of auditing work in audit working papers.

Some of the topics covered are preparation of working papers, indexing, cross-referencing, layout of work, completeness and accuracy.

Course includes a lecture with illustrations of working papers and assignments in the Firm publication *Preparation of Audit Working Papers*.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Winter Interns School

Acquaints winter interns with the Firm's approach to auditing and basic auditing techniques and the Firm's staff evaluation practices and standards of conduct for professional staff. The school also prepares these individuals for participation in basic audit work on actual engagements.

Topics covered in this three-day school include (1) working paper content and organization; (2) review, evaluation and testing of internal controls using transaction flow auditing; (3) audit of cash; (4) vouching of expenses and (5) confirmation of receivables.

Teaching methods include Firm-prepared audiotape and videotape presentations, case-study problem solving in small groups, brief lectures and group discussions.

**Prerequisites:** Winter internship employment

**Advance Preparation:** Reading of assigned text material

**CPE Contact Hours:** 24

## Dates

Jan. 4-6  
 Jan. 4-6  
 Jan. 4-6

## Location

Los Angeles  
 New York  
 St. Charles

## Summer Interns School

Acquaints summer interns with the Firm's approach to auditing and basic auditing techniques and the Firm's staff, evaluation practices and standards of conduct for professional staff. The school also prepares these individuals for participation in basic audit work on actual engagements.

Topics covered in this five-day school include (1) working paper content and organization; (2) review, evaluation and testing of internal controls using transaction flow auditing; (3) audit of cash; (4) vouching of expenses; (5) observation of inventories and (6) confirmation of receivables and evaluation of collectibility.



## AUDITING

Teaching methods include Firm-prepared audiotape and videotape presentations, case-study problem solving in small groups, brief lectures and group discussions.

**Prerequisites:** Summer internship employment

**Advance Preparation:** Reading of assigned text material

**CPE Contact Hours:** 40

Dates	Location
June 12-16	St. Charles

### **Auditing with Computers — Background Information**

Provides audit staffmembers with background information on various phases of computer operations. Designed particularly for those staffmembers who wish to increase their knowledge or who have had little or no computer instruction in college.

Topics include descriptions of computer operations, introductions to computer logic, flow-charting, auditing and EDP and programming logic.

The course includes videotape presentations, reading assignments, extended case studies and problems to be worked by the participants.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 6

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### **Transaction Flow Auditing (TFA)**

Teaches audit staffmembers and seniors how to apply the fundamentals of transaction flow auditing. The course is composed of a series of modules that are presented in specified combinations determined by the experience background of the participants.

Teaching methods include videotape and audiotape presentations, case-study problem solving with practical applications of transaction flow auditing and small-group discussions. Emphasis is on the recognition of the internal control objectives in each of several transaction flows, the recognition of the client's control techniques that affect the attainment of the internal control objectives and the risk analysis that leads to the establishment of the scope of the audit work.

**Prerequisites:** One busy season

**Advance Preparation:** Selected reading assignments

**Dates and Location:** The modules are combined as required for meetings to be conducted in the local offices as needed at dates determined by the offices.

## AUDITING

### **Training for Experienced Staff**

**Accountants** — Training for experienced staff accountants who have had only a minimal introduction to transaction flow auditing. Specific modules to be used are:

- **Overview of TFA** — A videotape that introduces the concepts of cycles in a business, transactions flowing through cycles, cycle control objectives and client control techniques for achieving the objectives. The tape closes with a brief explanation of the phases of a TFA approach.

**CPE Contact Hours:** 1

- **Introduction to Application of TFA** — A more detailed explanation of the general risk analysis phase, including the concepts of key variables and the financial planning and control function. The module includes a discussion of the planning of an audit using a work program for the direction of the transaction flow review. A function in the revenue cycle leads the participant through a properly completed Form AP-108. The material explains the basics behind each of the AP-108 sections, i.e., cycle control objectives, transaction flow, control techniques and evaluation.

**CPE Contact Hours:** 2

- **Interviewing** — A videotape presentation designed to enhance the staff's interviewing skills and to improve the capacity for understanding and evaluating client procedures and internal controls. The tape demonstrates good interviewing techniques.

**CPE Contact Hours:** 1

- **Flow-Charting for Auditors** — The module gives hands-on experience in the preparation of flow charts; defines the ten basic symbols for all audit flow charts and explains the differences in the level of detail used for systems design, Continuing Audit Files (CAFs) and AP-108s. The module includes a pretest so that persons experienced in flow-charting need only take the last half-hour.

**CPE Contact Hours:** 2

- **Expenditure-Payroll Cycle** — Explanation of the expenditure-payroll cycle and practice in the application of flow-charting techniques. Participants review cycle control objectives and receive information on payroll procedures that they use to prepare a CAF flow chart and reduce it to an AP-108 flow chart.

**CPE Contact Hours:** 2

- **Conversion Cycle** — Explanation of the conversion cycle and practice in the application of interviewing techniques. Participants review all conversion cycle objectives for reinforcement and develop information-gathering questions based on specific objectives and CAF write-ups describing the conversion cycle. The module includes a group discussion.

**CPE Contact Hours:** 2

- **Introduction to Specific Risk Analysis** — The unit builds upon subjects introduced in previous modules and explains in detail internal control techniques applicable to one purchasing function with frequent reference to the reasoning behind the objectives; the module then introduces participants to specific risk analysis and guides them through evaluations of several objectives, each having different degrees of achievement.

**CPE Contact Hours:** 2

**Training for Seniors** — Courses designed for senior accountants have two purposes: (1) to enable them to "catch up" on the concepts they would have learned had the approach been in use when they began their careers and (2) to introduce the audit techniques to be performed by seniors. Specific modules used are:

- **Senior "Catch-Up" Course** — The same modules used for training experienced staff accountants are used for seniors, but the introduction and emphasis are different. Also prepares seniors regarding what they can expect from their staff by giving the same training the staff receives.

**CPE Contact Hours:** 10

## **AUDITING**

□ **Specific Risk Analysis** — The module uses a function in the expenditure-purchasing cycle to present evaluation of risk and work-program preparation. Participants work through a realistic case study.

**CPE Contact Hours:** 3

□ **General Risk Analysis** — The module discusses evaluation of key variables and the financial planning and control function and describes the working papers and memoranda produced during this phase.

**CPE Contact Hours:** 1

□ **Financial Planning and Control** — The module explains the process for information gathering in the financial planning and control function, the objectives and control techniques of the function and how it fits into general risk analysis.

**CPE Contact Hours:** 1

□ **Questions and Answers** — This module is a videotape panel discussion by experienced audit partners who have applied TFA on their engagements in different industries. The discussion covers the most common questions and problems raised by partners and managers applying TFA to the revenue cycle.

**CPE Contact Hours:** 1

**Training for Partners and Managers** — The materials described above can also be used in the training of partners and managers when modified to fit their needs and after recognizing the extent of their prior experience with transaction flow auditing.

### **Internal Control**

A series of modules designed to teach audit staffmembers the latest control techniques used by business enterprises, including those used to control on-line EDP systems.

Teaching methods include videotape presentations and case problems. Emphasis is on the identification of those internal control techniques that can be audited.

**Prerequisites:** One busy season, transaction flow auditing courses for experienced staff accountants and Auditing with Computers — Introduction

**Advance Preparation:** None

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

□ **Overview of Internal Control** — A videotape emphasizes the significance of internal controls in relation to the audit function. Topics covered include concepts of economic events, transactions, accounting systems and internal controls and the significance of the transaction flow auditing approach in reviewing internal controls.

**CPE Contact Hours:** 1

□ **Internal Control Objectives and Types of Control Techniques** — The module includes topics such as control techniques in manual, batch-process EDP and on-line EDP systems; filtering and preliminary evaluation of control techniques; common deficiencies in control techniques; compensating techniques; control techniques vs. processing techniques and techniques that can be audited vs. invisible techniques.

**CPE Contact Hours:** 3

# AUDITING

## □ Identification of Internal Control

**Techniques**—The module includes topics such as common control deficiencies in the revenue cycle, distinction between audit risk and nonaudit risk resulting from failure to achieve compliance with internal control objectives and a demonstration of how the filtering process can assist in distinguishing between client control techniques and mere processing activities. The case problems involve identification by participants of typical risks within the revenue cycle and identification of key internal control techniques that can be audited.

**CPE Contact Hours:** 5

## Auditing with Computers — Introduction

Acquaints new audit staffmembers with information about computerized accounting systems, internal control features often found in such systems and computer-prepared reports often found on audit engagements. Emphasis is on auditing techniques new audit staffmembers will be required to use in their first years with the Firm.

This meeting is built around a single case study. A payroll application is the example for the problem. Videotape and audiotape presentations provide introductory information about the computer installations. The instructor uses discussion sessions and lectures to help participants work out the solution to the case study.

**Prerequisites:** Attendance at the Firmwide Audit Staff Training School

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Audit Procedures Course — Level I

A series of meetings designed for use in operating offices to instruct audit staffmembers in various auditing procedures, techniques and principles.

The course combines group discussions of case studies, lectures by the instructors and videotape presentations in most topic areas. Emphasis is on achieving an understanding of the reasons for audit procedures and practices used in the individual topic areas.

In a number of cases in this series, the material is also available in Spanish (student handout material, videotapes, etc.).

**Prerequisites:** Attendance at the Firmwide Audit Staff Training School plus, for some of the topics, one busy season

**Advance Preparation:** None

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

□ **General Audit Matters** — Introduction to certain Firm policies such as bluebacks, case reports and Subject File items; how audit reports are drafted, processed, referenced and signed; the second-partner review; the audit review questionnaire; the Firm's training program; on-the-job training; making effective use of unassigned time to further personal development and working paper conclusions and control of working papers. The CAF and its function are discussed, and there are sections on developing the business approach to auditing and on improving the effectiveness of auditing techniques.

**CPE Contact Hours:** 8

## AUDITING

□ **Cash** — Special features of cash work, emphasizing internal controls in cash work, the setting of audit scopes, problems of interbank transfers, checks for investigation and duplicate deposit slips.

**CPE Contact Hours: 3**

□ **Long-Form Cash** — Techniques used in extended cash audit work and instruction regarding when such techniques are appropriate and when modifications of them are possible.

**CPE Contact Hours: 3**

□ **Accounts Receivable** — Procedures for selecting and processing confirmations; controls over accounts to ensure they are selected from the entire universe, which has been tied to the control account; alternate procedures for nonreplies; satisfactory work on exceptions and the various methods of selecting samples for confirmation.

**CPE Contact Hours: 3**

□ **Inventory Observation** — Problems encountered in observing physical inventories, particularly in obtaining a knowledge of the product and the manufacturing processes, counting techniques and controls, cutoff problems at the time of the physical counting, etc.

**CPE Contact Hours: 4**

□ **Inventory Accumulation** — Topics related to accumulation of inventory costs subsequent to the physical observation, such as tracing of test counts, clerical tests of accumulation, pricing tests, alternative pricing methods, cutoff problems and roll-forward work related to interim inventories.

**CPE Contact Hours: 4**

□ **Prepaid Expenses** — Audit procedures used for prepaid expenses, prepaid insurance, etc. There is a discussion of goodwill as a semi-independent part of the meeting.

**CPE Contact Hours: 3**

□ **Property, Plant and Equipment** — The audit procedures relating to fixed assets, such as auditing additions, auditing retirements, depreciation policies and procedures, gain and loss on sales, capitalization procedures and internal control features.

**CPE Contact Hours: 4**

□ **Accounts Payable** — The use of the audit program, internal controls, circularization procedures, clearance and reconciliation of differences, searching for unrecorded liabilities and cutoff problems.

**CPE Contact Hours: 6**

□ **Accrued Liabilities** — The audit techniques used on accrued liabilities (excluding income taxes). Emphasis is on using information from other parts of the audit to satisfy questions in this area and on keeping the work to a necessary minimum.

**CPE Contact Hours: 2**

□ **Stockholders' Investment** — The audit techniques and accounting peculiarities of accounts in the stockholders' investment area, i.e., capital stock, paid-in surplus, retained earnings and treasury stock. The module also covers the normal confirmation work, examination of stock registers where needed and review of representative transactions in this area.

**CPE Contact Hours: 2**

□ **Procedure Tests** — The audit procedures used in making tests of payroll, disbursements and sales registers. Module serves as a review of what was taught at FASTS with emphasis on the purpose of certain steps.

**CPE Contact Hours: 6**



## AUDITING

□ **Investments** — Auditing techniques used in the investments area; emphasis is on determining market prices for investments, reviewing the equity basis of accounting for certain investments, financial statement disclosures and presentation and necessary confirmation routines.

**CPE Contact Hours:** 2

### Auditing with Computers — AUDEX

Teaches audit staffmembers how to gain access to data of audit significance in clients' computer files and how to make use of AUDEX, the Firm's generalized computer audit extract system. There are discussions of situations in which AUDEX can be effectively applied, and participants design output reports to be used in actual situations.

Topics taught during the meeting are the capabilities of AUDEX, preparation of AUDEX specification sheets for input of data, design of output reports and confirmation forms and use of AUDEX in many different audit situations.

Teaching methods include integrated presentations using videotapes, audiotapes and workbooks. Participants work out two case studies. Optional hands-on experience with AUDEX and office computer terminals is also provided.

**Prerequisites:** Attendance at Auditing with Computers — Introduction

**Advance Preparation:** None

**CPE Contact Hours:** 20

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Audit Procedures Course — Level II

A series of meetings designed for use in operating offices to instruct audit staffmembers in various auditing procedures, techniques and principles. The meetings are generally on an intermediate level, building on topics included in Level I and including topics for the next level of responsibility.

The course combines group discussion techniques, use of case studies, lectures by the instructors and videotape presentations in many topic areas. Emphasis is on achieving an understanding of the reasons for audit procedures and practices used in the individual topic areas.

**Prerequisites:** Attendance at the Firmwide Audit Staff Training School and two busy seasons

**Advance Preparation:** None

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

□ **Cash** — Teaches staffmembers how to review cash working papers. The topics covered are generally the same as in the other meetings on cash, i.e., setting scope, examination of unusual items, confirming balances, tying out all reconciling items, etc.

**CPE Contact Hours:** 4

□ **Accounts Receivable** — The audit of the bad debt reserve account and discussion on financial statement presentation and disclosure for receivables.

**CPE Contact Hours:** 2



## AUDITING

□ **Inventories** — Topics cover three major areas that are usually the responsibility of the more experienced person on the job, i.e., overall evaluation of inventories from a pricing standpoint (LIFO, FIFO, etc.), auditing procedures to be used when standard cost systems are present and the problems related to obsolete and slow-moving inventories.

### CPE Contact Hours: 4

□ **LIFO Inventories** — Teaches the audit staffmember how to audit LIFO inventories, how to discuss LIFO problems with client personnel, how to compute LIFO values under differing circumstances and methods and other related matters dealing with LIFO inventories.

### CPE Contact Hours: 4

□ **Federal Income Taxes** — Analyzing and testing the income tax accrual in an audit, analyzing and testing the cushion or deficiency in the accrual and the current provisions, reconciling book and taxable income, computing taxes payable, testing the deferred tax balance and provision, computing tax credits and computing the current tax provision.

### CPE Contact Hours: 12

□ **Job Administration** — Teaches an in-charge person how to run an audit. Areas emphasized are writing programs, estimating time, staffing, controlling fieldwork, controlling time, reviewing working papers, participating in client conferences, buttoning up the job and evaluating staff.

### CPE Contact Hours: 3

□ **Profit and Loss** — The audit techniques used on various profit and loss accounts, writing operating memos, discussion of the reasons for changes with management, development of the business approach to auditing and tying in the work on balance sheet accounts to the results of operations.

### CPE Contact Hours: 5

□ **Auditors' Reports** — A basic meeting on audit reports. Topics include the structure of the report and how to use the Firm's publication *Auditors' Reports* as the source of information about qualified audit opinions.

### CPE Contact Hours: 4

□ **Stock Options, Splits and Dividends** — Presents the accounting for stock options, splits and dividends and the necessary auditing techniques. The meeting also includes a discussion of financial statement presentation.

### CPE Contact Hours: 4

□ **Notes Payable and Long-Term Debt** — Auditing of notes payable, including the problems of confirmation, statement presentation, loan violations, auditing for compliance with loan agreements and drafting of compliance letters.

### CPE Contact Hours: 4

□ **Deferred Expense** — Audit techniques used for deferred expense accounts, including goodwill, intangible costs and patents. The goodwill section includes an extended discussion of the entire problem.

### CPE Contact Hours: 3

□ **Property, Plant and Equipment** — The more advanced aspects of auditing in the property, plant and equipment area, including assigning values to assets acquired for other than cash, problems of uncertain recovery of costs of assets and the treatment of leased property. The meeting also emphasizes first-time-through situations in which property must be analyzed for a considerable period of time.

### CPE Contact Hours: 4

# AUDITING

□ **Purchase Investigations** — The audit techniques used in the purchase investigations area when time is limited and when the information needed may be restricted only to certain accounts or to overall situations.

**CPE Contact Hours:** 4

## AUDEX 100 Workshop

Gives experienced audit and A/S personnel simulated field experiences in the application and operation of AUDEX, the Firm's generalized computer audit extract program.

The school reviews the capabilities of AUDEX and the preparation of specification sheets for AUDEX.

The school also reviews the capabilities of AUDEX 100, the Firm's more powerful version of AUDEX. Finally, the school teaches participants how to develop JCL (Job Control Language) input information to run the software on the computer.

Participants work several case studies during the workshop. They prepare specification sheets for input and JCL requirements and gain extensive hands-on experience by using the computer to solve the various case studies.

**Prerequisites:** Audit staffpersons should have completed both Auditing with Computers — Introduction and AUDEX or have the equivalent experience through several field applications of AUDEX.

A/S staffpersons should have completed the Computer Fundamentals School and have at least limited experience in JCL (either DOS or OS) and one or more AUDEX applications.

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
Apr. 17-21	St. Charles
May 1-5	St. Charles
May 8-12	St. Charles
May 8-12	London

Dates	Location
May 15-19	St. Charles
May 15-19	London
May 22-26	St. Charles
June 12-16	St. Charles
June 26-30	St. Charles
July 17-21	St. Charles
July 24-28	St. Charles
July 24-28	London
July 31-Aug. 4	London
Aug. 7-11	St. Charles
Aug. 14-18	St. Charles
Aug. 21-25	St. Charles
Sept. 11-15	St. Charles

## Senior Development Course

Guides newly promoted in-charge senior accountants in the assumption of job responsibilities, accelerates personal development by minimizing the difficulties of transition to senior status and teaches the responsibilities of a senior.

Topics covered include improving the effectiveness of audit procedures, the business approach to auditing, job administration, usage of audit programs, on-the-job training, financial statements and auditors' reports, review of working papers and performance evaluation.

Teaching methods include group discussion techniques, case studies designed to illustrate problems under discussion, lectures by the instructors and videotape and audiotape presentations where appropriate.

**Prerequisites:** Attainment of in-charge senior status

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
May 1-5	Toronto
May 8-12	Los Angeles
May 15-19	St. Charles
May 15-19	New York
May 22-26	St. Charles
May 22-26	Milan
June 5-9	Hamburg

# AUDITING

<b>Dates</b>	<b>Location</b>
June 5-9	St. Charles
June 5-9	Atlanta
June 5-9	Mexico City
June 5-9	São Paulo
June 12-16	St. Charles
June 12-16	Los Angeles
June 12-16	New York
June 19-23	Houston
June 19-23	St. Charles
June 26-30	London
June 26-30	St. Charles
December	Australia

## **Audit Procedures Course — Level III**

A series of meetings designed for use in operating offices to instruct audit staffmembers in various auditing procedures, techniques and principles. The course content is generally on an intermediate level, building on topics included in Levels I and II. In most cases, the participants are in-charge seniors.

The course combines group discussions, case studies, lectures and videotape presentations in many topic areas. Emphasis is on achieving an understanding of the reasons for the audit procedures and practices used in the individual topic areas.

**Prerequisites:** Attendance at the Firmwide Audit Staff Training School and three busy seasons

**Advance Preparation:** None

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

- **Auditors' Reports** — Advanced study for the meeting in Level II. Meeting trains participants to draft opinions and edit notes included in qualified audit reports and presents approximately five specific situations as case studies in the most common areas of difficulty that occur in practice.

**CPE Contact Hours:** 4

- **Pension Cost Accounting** — Covers accounting for and auditing of pension costs. The course covers problems of actuarial assumptions, gains and losses, financial statement presentation, APB No. 8, etc.

**CPE Contact Hours:** 3

- **Earnings Per Share** — Covers the mechanics and requirements of computing earnings per share with or without dilution, financial statement presentation and compliance with various pronouncements of professional groups.

**CPE Contact Hours:** 4

- **Reporting Results of Operations** — Covers reporting requirements of the various professional pronouncements dealing with prior-period items, extraordinary items, reporting of changes, etc.

**CPE Contact Hours:** 4

- **Convertible Debt** — Covers the use of and accounting for convertible debt and debt with warrants, including income tax problems and earnings-per-share implications.

**CPE Contact Hours:** 3

- **Income Taxes** — Presents the principles of tax allocation accounting, including accounting and auditing problems involved, financial statement presentation and pronouncements of professional groups on the subject.

**CPE Contact Hours:** 6

- **Statements of Changes in Financial Condition** — Preparation of fund statements. The course covers working paper techniques, case problems, statement drafting, etc.

**CPE Contact Hours:** 4

- **Consolidations** — Covers preparation of consolidated financial statements, accounting for investments using the equity method, accounting for acquisition using the pooling-of-interests method and accounting for subsequent operations on all of the above bases.

**CPE Contact Hours:** 8

# AUDITING

□ **Sequential Audit Planning** — The use of SAP techniques in the audit administration and how to write programs to fit the techniques and administer the system once it is used.

**CPE Contact Hours:** 6

□ **Valuation Criteria** — The basic theory behind methods used in valuation of assets, such as historical cost, replacement cost, price-level-adjusted cost and current-value accounting. The meeting gives the participant the necessary background to compare the different methods and discuss the topic with others.

**CPE Contact Hours:** 4

## Business Approach to Auditing — Failure to Detect Fraud During an Audit

Presents examples of situations that alert auditors should recognize, such as forged checks, excess payroll charges and fraudulent receivables. Emphasizes the need for constant awareness of business problems and situations during an audit.

Meeting includes a videotape of a courtroom scene that illustrates the problems of the auditor supplemented with an audiotape and discussion periods to review the situations seen on videotape.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 4

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Working Paper Review Program

Presents the results of the annual working paper review program to audit personnel. Emphasizes points of audit and administrative procedures in

need of careful observation and possible improvement. Topics cover all of those included in an audit engagement.

The meeting includes discussion groups, working with case studies, lectures and other problem-solving exercises.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Subsequent Events — SAP 47

Presents for discussion the major features of SAP 47, which explains the auditor's responsibility in regard to subsequent events.

The presentation includes an audiotape and a discussion outline.

**Prerequisites:** Senior status

**Advance Preparation:** None

**CPE Contact Hours:** 1

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Administration of Audit Engagements

Reviews the administrative responsibilities set forth in FAR 115. The meeting covers the preaudit review in the field as an aid to determining audit problems and scope, the second-partner review of the financial statements and the audit review questionnaire.

## AUDITING

The presentation includes a videotape and small-group discussions.

**Prerequisites:** Manager status

**Advance Preparation:** None

**CPE Contact Hours:** 2

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### System/3 AUDEX Course

Instructs participants in the use of the generalized computer audit program for System/3 AUDEX for audits of companies with small computers.

Course includes a comparison of the capabilities of the regular AUDEX and the System/3 AUDEX software packages, preparation of specification sheets for the installation and preparation of OCL specifications to run the software on the computer.

The presentation includes two integrated case studies. The participants work the first with the aid of videotape and audiotape instruction, workbooks, suggested solutions and reading assignments and the second without any assistance other than a suggested solution made available at the end of the case study. An optional feature allows participants to take the results of the first case study and run the resulting input on a computer to test the actual input data in a real situation.

**Prerequisites:** Attendance at Auditing with Computers — AUDEX

**Advance Preparation:** None

**CPE Contact Hours:** 14

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Comfort Letters — SAP 48

Describes the major changes in AICPA policy resulting from SAP 48 and the ensuing impact on our Firm policies and on local-office practices.

The meeting includes an audiotape and related discussion material for small-group presentations.

**Prerequisites:** Manager status

**Advance Preparation:** None

**CPE Contact Hours:** 2

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Interest on Receivables and Payables

Examines the requirements of APB Opinion 21 relating to interest on receivables and payables.

Meeting includes several case studies and problems to be solved in small-group discussions.

**Prerequisites:** Manager status

**Advance Preparation:** None

**CPE Contact Hours:** 1

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Management Fraud

Introduces the more common examples of management fraud situations and auditing measures that can be taken to detect them. The more significant management fraud cases in recent years are used as examples.



## AUDITING

Presentations include videotapes of various case situations and reading assignments from court decisions and other similar documents. Provision is made for discussion of each of the cases presented.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 3

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Quarterly Reviews

Introduces the subject of quarterly reviews with the related auditing and reporting requirements. Topics include SEC requirements for procedures to be followed and for disclosure of the results of the reviews and Firm experiences in making such reviews.

The meeting uses a videotape presentation, small-group discussions and case studies.

**Prerequisites:** Senior status

**Advance Preparation:** None

**CPE Contact Hours:** 2

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Audit Division Update

A series of meetings relating primarily to matters of current interest in the audit division. Topics include various actions of the SEC, the FASB, the AICPA and similar non-U.S. groups.

The meeting uses videotapes supplemented by small-group discussions.

There are four current meetings:

The Petition — Action and Reaction — discusses the Firm's petition to the SEC regarding ASR 150

Audit Update (July 1976) — discusses current FASB actions, releases of AICPA groups that have an influence on Firm policies and procedures, etc.

Audit Update (April 1977) — discusses auditing deficiencies cited by the SEC as examples of current problems facing the accounting profession

Audit Update (November 1977) — discusses the requirements of SAS 20 and related Firm policies regarding reporting on weaknesses in internal control

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 4

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.





## OTHER

### Securities and Exchange Commission Course

Teaches audit staffmembers how to use the Firm's reference and source material relating to SEC practice.

Topics included are the Federal securities laws and the SEC; Forms S-1 and 10-K; preparation of financial statements, summary of earnings, statement of changes in financial position, schedules and auditors' reports; filing requirements and other matters connected with SEC practice.

Primary teaching aids include an integrated case study using audiotapes, reading assignments in Firm publications, lectures and problem-solving exercises.

**Prerequisites:** Senior status

**Advance Preparation:** None

**CPE Contact Hours:** 16

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Securities and Exchange Commission Lecture for Non-U.S. Offices

A basic introduction to SEC regulations as they affect our non-U.S. audit practice. The material presented is general in nature and is designed for use in our non-U.S. locations, where in-depth familiarity with SEC requirements is not necessary.

This meeting is primarily a lecture with illustrations of the examples used and some discussion of the concepts.

**Prerequisites:** Senior status

**Advance Preparation:** None

**CPE Contact Hours:** 4

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Securities and Exchange Commission Release No. 173

Acquaints audit staffmembers with the contents of SEC Release No. 173, which points out several defects in accounting by companies filing with the SEC and also indicates weaknesses in the procedures followed by the auditors of the companies. The meeting stresses the importance of effective audit techniques in the face of unusual or complicated economic situations.

Presentations include a videotape with discussion sessions on various topics included in the SEC release.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 2

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Securities and Exchange Commission Release Nos. 196, 209 and 210

Acquaints audit staffmembers with SEC Release Nos. 196, 209 and 210, which point out defects in accounting by companies filing with the SEC and also indicate weaknesses in the procedures followed by the auditors of the companies. The meeting stresses the importance of effective audit techniques in the face of unusual or complicated economic situations.

Presentations include a videotape with discussion sessions on various topics included in the SEC releases.

## OTHER

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 1

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Sensitive Transactions

Acquaints audit staffmembers with the views of the profession, the SEC and attorneys on various types of sensitive transactions. The course stresses the importance of investigating these transactions to determine the necessary disclosure.

Presentations include a videotape of a series of case problems, participant discussion and a summary of Firm policies and procedures in the areas covered by the problems.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 3

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Basic Tax Course for Auditors

Teaches basic tax theory to experienced U.S. audit staffmembers. Trains staffmembers to prepare routine corporate tax returns and to identify some of the more complex corporate tax problems.

The course covers such topics as concepts of taxable income, allowable deductions, differences between book and taxable income, permanent disallowances of deductions, tax computations and working paper preparation.

The course makes extensive use of case studies and includes assignments in a current textbook on U.S. taxation, lectures and small-group discussions.

**Prerequisites:** One or two busy seasons

**Advance Preparation:** None

**CPE Contact Hours:** 40

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Seminar on Canadian Taxes

Updates audit partners and managers in Canadian offices on Canadian income taxation.

The seminar includes presentations by partners with Canadian tax competence, discussions in small groups and use of case studies.

**Prerequisites:** Manager status

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
To be determined	Toronto

### Equipment Sales Company Case Study

A case study of a hypothetical company representative of many of our smaller clients. The meeting determines business suggestions to provide effective assistance in the company's progress.

The meeting examines organizational and financial problems, problems with operating reports and procedures and ineffective clerical procedures, etc.

The meeting includes an integrated case study on this hypothetical company with problem-solving exercises, lectures and small-group discussions.

**Prerequisites:** One busy season

**Advance Preparation:** None

**CPE Contact Hours:** 24

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.



# INTRODUCTORY I

## Accounting and Business Fundamentals Course

Teaches basic accounting (using the procedural and systems approach); provides a working knowledge of the basic framework of the accounting process and describes the basic functions, responsibilities, procedural flow, documentation and related control requirements common to most businesses.

The course is provided for new A/S personnel who have had less than 12 hours of accounting in their formal education as preparation for the Audit Training Course for Administrative Services Personnel, the A/S Staff Training Course and the A/S Staff Training School.

This course covers several areas. The first includes basic accounting procedures, such as how to post normal accounting transactions, calculate and post accrual and closing entries and reconcile bank accounts. The other main areas are:

1. The basic functions and responsibilities of the following areas of operation:
  - a. Treasury
  - b. Materials
  - c. Marketing
  - d. Personnel/Payroll
  - e. Controller
2. The business and accounting systems in each of the above areas in terms of:
  - a. Procedures to be accomplished
  - b. Flow of information and required documents
  - c. Significant control considerations (systems and internal controls) required by the system
3. The three main forms of business organization in terms of their legal, financial and organizational structures
4. The basic process of business planning and budgeting
5. The basic terminology and concepts associated with a manufacturing enterprise and accounting for manufacturing costs

This course uses textbooks, videotapes, work problems and exercises. There are self-check tests to enable the student to by-pass subject matter with which he or she is already familiar as well as to check attainment of topic objectives. There are no classroom presentations; however, instructors are available to answer questions and review individual progress.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 80

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Audit Training Course for Administrative Services Personnel

Provides sufficient instruction in audit objectives, audit procedures and techniques to enable students to perform adequately under supervision at the audit intern level. The course prepares the student to work on an audit so that he or she can gain a working understanding of the role and function of the auditor and a sound basis for working with audit personnel.

This course is designed for new A/S personnel who have not attended the Firmwide Audit Staff Training School and have not had audit experience. An 8-10 week planned audit experience should follow this one-week course.

Topics covered are audit objectives; FARs; preparation of working papers; internal control; ethical standards; materiality and such audit procedures as cash, accounts receivable, inventories, vouchering test, sales test and payroll test. The course also includes a review of actual working paper files and financial statements for selected company audits.



## INTRODUCTORY I

This is a structured course consisting of text material, videotapes, audiotapes, workbooks and lecture presentations with slides. The students work problems and exercises that are critiqued in discussion sessions led by an experienced audit senior or manager.

**Prerequisites:** Completion of Accounting and Business Fundamentals Course if student has had less than 12 semester hours of accounting

**Advance Preparation:** None

**CPE Contact Hours:** 40

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Administrative Services Staff Training Course

Introduces the participant to the Firm and its Administrative Services practice and orients the participant to the Firm's approach to systems work, provides the prerequisite knowledge for attending the Administrative Services Staff Training School and provides recognition-level proficiency in systems skills needed on a client engagement for the following functions:

1. Operations Planning and Reporting
2. Financial Planning and Reporting
3. Marketing Planning and Reporting
4. Productivity Planning and Reporting

This course is provided for personnel who have joined the Administrative Services Division within six months, through direct employment or through transfer from within the Firm. Transferred personnel should take this course no earlier than six weeks before transfer.

Topics covered include General Systems (the overall systems approach to any engagement), Financial Planning and Reporting, Marketing Planning and Reporting Systems, Productivity

Planning and Reporting, Operations Planning and Reporting and an orientation to the follow-on Administrative Services Staff Training School. This course does not cover computer implications but does cover the Firm's Systems Planning Charts.

This course uses text material, videotapes, audiotapes, workbooks and self-checking posttests. An overall proficiency test administered at the end of the course indicates comprehension of key points. A course adviser evaluates participants' progress throughout the 12-day course and is available to answer questions.

**Prerequisites:** Registration for Administrative Services Staff Training School

Accounting degree or at least 12 semester hours of accounting or completion of the Firm's Accounting and Business Fundamentals Course

**Advance Preparation:** None

**CPE Contact Hours:** 88

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Administrative Services Staff Training School

The school provides the participant with the following:

1. An orientation to the interrelationships of the various policies and operations of a company and their effect on the company's system
2. The ability to apply systems fundamentals and techniques relating to marketing planning and reporting systems, the complete order entry-shipping-billing cycle, cost accounting systems, inventory and production control systems and productivity standards
3. The ability to install general systems procedures and controls at the basic level of performance under normal supervision

## INTRODUCTORY I

Personnel attend the school during their first six months with the Administrative Services Division. It completes the first level of training in Planning and Reporting Systems and is prerequisite to attendance at other Firmwide Planning and Reporting training schools.

The school includes both formal topic presentations and specific problem assignments in an integrated case study. In the case-study assignments, teams of three students develop solutions later discussed in a 12-student group led by two experienced instructors. The instructors distribute the school "example solution" at the end of these discussions to bring out any points that may have been missed while discussing the solutions developed by the student teams.

**Prerequisites:** Satisfactory completion of the local-office Administrative Services Staff Training Course

**Advance Preparation:** None

**CPE Contact Hours:** 88

Dates	Location
Feb. 13-24	St. Charles
Apr. 24-May 5	St. Charles
July 17-28	St. Charles
Aug. 21-Sept. 1	St. Charles

### Productivity Planning and Reporting Concepts and Techniques

Completion of this course should enable the student to (1) describe in general the eight major work-measurement techniques currently being employed, the areas in which these techniques can effectively be applied and their major advantages and disadvantages and (2) demonstrate comprehension of the activities related to planning, scheduling and control reporting as applied within our productivity planning and reporting practice.

The topics covered are presented in three volumes. Volume I, *Work Measurement*, includes the common aspects of work measurement, estimates, simple averaging, logging, batching, work sampling, group timing, time study, predetermined motion-time

systems and selection of work measurement techniques. Volume II, *Planning, Scheduling, and Control*, includes forecasting, work load analysis, establishing personnel requirements, short-interval scheduling, exception processing, cross-training, utilization of flexible staffs and performance reporting. Volume III contains the solutions to case problems and posttests that follow each topic in Volumes I and II.

**Prerequisites:** Completion of the local-office Administrative Services Staff Training Course and the St. Charles Administrative Services Staff Training School

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Computer Programming Course

Introduces the student to basic computer concepts and information processing systems and covers flow-charting and logic-charting using standards and conventions described in the *Binder of Firm Practices in EDP* and the *IP Systems Development Practices* binder, explains Assembler Language programming and introduces Disk Operating System concepts and facilities. The course is a prerequisite for attendance at the follow-on Firmwide Computer Fundamentals School.

This course is the new staffperson's first training exposure to computer fundamentals and the AA&Co. approach to computer systems work. New A/S staff should take this course during their first six months in the Administrative Services Division. It may precede or follow the Administrative Services Staff Training Course and School at the discretion of the local office.

This two-week course is the first part of a five-week formal training program. The second part is the three-week Firmwide Computer Fundamentals



## INTRODUCTORY I

School in St. Charles. On-the-job reinforcement through assignment to a programming engagement follows the five-week formal training program.

Topics covered include an introduction to computer concepts, the history and status of information processing systems, the steps in design and installation of information processing systems, problem-solving techniques, the IBM System/360-370 architecture, Assembler Language programming and Disk Operating System concepts and facilities. The course reinforces the participant's training by presenting a case problem that entails logic-charting and coding a simple computer program.

This course uses text materials, videotapes, audiotapes and workbooks for presentation of subject matter. There are self-checking tests and a programming proficiency test to help measure comprehension of key points. An adviser monitors student progress at designated checkpoints and answers student questions throughout the course.

**Prerequisites:** All new A/S personnel without extensive prior programming experience

Registration at the follow-on Firmwide Computer Fundamentals School in St. Charles

**Advance Preparation:** None

**CPE Contact Hours:** 64

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Computer Fundamentals School

Provides the participant with hands-on experience in programming and debugging functions, concepts and techniques. At the completion of this training, the student should be able to work on a BAL programming assignment (logic-charting, coding, testing and debugging) under a normal level of supervision.

A/S personnel attend this school at some point during their first six months in the division. It completes the first level of technical training in information processing systems and is a prerequisite to attendance at other Firmwide Information Processing Schools.

The school provides formal instruction in analysis and review of computer program specifications, development of mainline and subroutine logic charts, BAL coding, preassembly and postassembly desk checking and debugging, preparation of a comprehensive test plan and test data, program testing and debugging (including the use of PANVALET and the AA&Co. OS Test Network) and development of a thoroughly documented set of program working papers.

The school consists of approximately 21 hours of formal instruction and up to 107 hours work on a comprehensive case problem. After the student finishes logic-charting and coding the case, the program is keypunched and assembled, using the Firm's computer system through remote job entry terminal equipment located at St. Charles. The program is then tested with data developed by the student. The student's work is considered complete when the program runs satisfactorily using the student's test data and test data supplied by the faculty.

**Prerequisites:** Satisfactory completion of the local-office Computer Programming Course

Assignment to a programming engagement for three months of on-the-job training to commence upon completion of the school (although not mandatory for attendance at the school, it is recommended to solidify and reinforce the formal training)

The participant should have attended (or be scheduled to attend during the current year) the Administrative Services Staff Training School.

**Advance Preparation:** None

**CPE Contact Hours:** 128

## INTRODUCTORY I

Dates	Location
Jan. 9-27	St. Charles
Jan. 16-Feb. 3	St. Charles
Jan. 23-Feb. 10	St. Charles
Jan. 30-Feb. 17	St. Charles
Feb. 6-24	St. Charles
Feb. 13-Mar. 3	St. Charles
Feb. 20-Mar. 10	St. Charles
Feb. 27-Mar. 17	St. Charles
Apr. 3-21	St. Charles
Apr. 10-28	St. Charles
Apr. 17-May 5	St. Charles
Apr. 24-May 12	St. Charles
May 1-19	St. Charles
June 5-23	St. Charles
June 12-30	St. Charles
July 17-Aug. 4	St. Charles
July 24-Aug. 11	St. Charles
July 31-Aug. 18	St. Charles
Aug. 7-25	St. Charles
Sept. 11-29	St. Charles
Sept. 18-Oct. 6	St. Charles
Sept. 25-Oct. 13	St. Charles
Oct. 2-20	St. Charles
Oct. 9-27	St. Charles
Oct. 16-Nov. 3	St. Charles
Oct. 23-Nov. 10	St. Charles
Nov. 28-Dec. 16	St. Charles

### ANS COBOL Course

Prepares persons trained in BAL, without previous knowledge of ANS COBOL, to work effectively on a COBOL programming assignment under normal supervision. Upon completion of this course, the student should be able to code ANS COBOL programs that require data manipulation, arithmetic operations and the logic- and table-handling features of the language. The student should also be able to code programs to create and access sequential and indexed sequential files, code the statements to accomplish subprogram linkage, debug ANS COBOL source program listings, provide the job control information necessary to compile and execute an ANS COBOL program, use debug statements to trace program execution selectively and exhibit variables during execution and use compiler output and storage dumps to determine program errors.

The course covers 16 topics in the following areas: an overview of a complete COBOL program, the basic COBOL programming concepts and advanced COBOL concepts and techniques.

This course includes student-instructor discussion sessions for assessment of progress. Subject matter is presented through text material, videotapes, audiotapes and workbooks. There are no classroom presentations. An exercise in coding and debugging a card input, a printer output program and a tape-to-printer program reinforce learned techniques.

**Prerequisites:** Successful completion of the Firm's Computer Programming Course and Computer Fundamentals School or equivalent BAL competence obtained outside the Firm

Successful completion of ANS COBOL Course prerequisite examination

Assignment to follow-on COBOL programming engagement

**Advance Preparation:** None

**CPE Contact Hours:** 64

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Competence Development Program — General Ledger and Responsibility Reporting System

Designed as specialized training for the person who has been in the Administrative Services Division six months to two years, this two-part course offers instruction in RPG II programming in part one and the capabilities of the Firm's General Ledger and Responsibility Reporting System Installation Aid in part two. Part two also teaches methods of installation and operation of this installation aid under normal technical supervision.

## INTRODUCTORY I

Part one of this course offers two instructional approaches to RPG II programming. The first uses the Firm's *RPG II Training Manual* and requires a full-time instructor. This approach requires two to three days. The second approach uses IBM's *RPG II Programmed Instruction Course*. This programmed instruction requires four to five days.

Part two covers the Firm's General Ledger and Responsibility Reporting System Installation Aid. The participant works on a case problem that is solved through hands-on use of the computer equipment and the complete set of reference manuals and system documentation. The course also includes an introductory videotape.

**Prerequisites:** Assignment in the immediate future to an engagement to install the General Ledger and Responsibility Reporting System. Participants must have a working knowledge of RPG II and System/3 OCL (Operations Control Language) to gain maximum benefit from the case problem.

Prior attendance at the Firmwide Computer Fundamentals School is desirable but not essential.

**Advance Preparation:** None

**CPE Contact Hours:** 56

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Competence Development Program — INTERSIM

Designed for the A/S staffmember with six months to two years of experience and knowledge of computer fundamentals and basic programming concepts. Covers in detail the capabilities of the Firm's INTERSIM Installation Aid and how to install and operate the system under normal technical supervision. Teaches FORTRAN programming and the General Electric Time-Sharing Command Language. Students complete an INTERSIM case study.

Course content includes FORTRAN programming language, time-sharing concepts, General Electric Command Language, accessing the INTERSIM system on the GE network, the INTERSIM Installation Aid and the capabilities of INTERSIM and the

specification and documentation requirements. Participants prepare data file definition forms, classify input data, code user-written sections of the model and develop report specifications as part of a case study. Students test their solutions on the GE time-sharing system through time-sharing terminals in the local office.

**Prerequisites:** Assignment to install INTERSIM in the immediate future

Prior attendance at Computer Fundamentals School or equivalent outside training and experience is desirable but not essential.

**Advance Preparation:** None

**CPE Contact Hours:** 40

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Work Packaging and Scheduling in the Construction Environment

Familiarizes the student with new techniques that are being applied in the construction industry to provide visibility and control over cost and schedule performance on major construction projects.

This specialized course is intended for A/S personnel with a minimum of six months experience.

Presentations, through a combination of text and videotape, include "Work Packaging Overview" by Robert L. Elmore, "Construction Industry . . . Project Control Through Work Packaging Concepts" by Robert L. Elmore and David C. Sullivan and "Scheduling Considerations" by William F. Ramsaur.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 1

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## INTRODUCTORY I

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## DEVELOPMENT II

### Information Processing Systems Installation Course

Prepares the A/S staffperson to perform Information Processing Systems installation work at a detail level in accordance with a work program and under normal supervision. Provides recognition-level proficiency in skills related to the organizational and administrative aspects of computer systems installation projects and a detailed knowledge of the Firm's policies and approaches regarding installation projects. This course is a prerequisite for attending the follow-on Firmwide Information Processing Systems Installation School at St. Charles.

Designed for A/S personnel with six months to one and one-half years of experience, this course and its follow-on school are prerequisites for attending the Information Processing Systems Design School.

Course covers departmental and project organizational structures, equipment and software evaluation, detail system design, programming and debugging, conversion preparation, system test, conversion and production systems support.

A pretest determines the student's level of knowledge prior to taking the course, and self-checking posttests determine the attainment of topic objectives. The course presents subject matter through text material, videotapes and audiotapes. A course adviser (an A/S senior or manager with heavy experience in installing Information Processing Systems) monitors the student's progress. An overall proficiency test measures comprehension of key concepts and techniques at the end of the course.

**Prerequisites:** Prior attendance at the Computer Fundamentals School and subsequent on-the-job programming experience

Prior attendance at Administrative Services Staff Training School

Assignment (other than programming) to a Computer Systems Installation engagement within at

least eight weeks following this course and the Information Processing Systems Installation School

Registration for the follow-on Firmwide Information Processing Systems Installation School at St. Charles, which the student attends within four weeks after completion of this course

**Advance Preparation:** None

**CPE Contact Hours:** 48

**Dates and Location:** Various. Conducted in operating offices according to need and scheduling of follow-on school in St. Charles. Dates in any office are available from the local-office Director of Training.

### Information Processing Systems Installation School

Prepares A/S staffmembers who have had on-the-job programming experience and who are currently assigned to their first Information Processing Systems installation work other than programming to perform EDP installation work at the detail level for both batch and interactive systems in accordance with a work program and under normal supervision.

The school consists of an integrated case problem covering the various segments of an IP Systems installation project and audiotaped discussion topics on the unique techniques involved in an installation project for an interactive system.

Specific case problem assignments cover the key segments of an installation project. The students work out their solutions in teams and discuss the solutions in groups of about 20 students. The discussion leader is an A/S manager with heavy experience in designing and installing IP Systems.

**Prerequisites:** Satisfactory completion of the local-office IP Systems Installation Course within four weeks after attendance at the central school

Prior completion of the Computer Programming Course, Computer Fundamentals School and Administrative Services Staff Training Course and School

**Advance Preparation:** None

**CPE Contact Hours:** 40 through August, then 88

## DEVELOPMENT II

Dates	Location
Jan. 30-Feb. 3	St. Charles
Mar. 6-10	St. Charles
Apr. 17-21	St. Charles
May 15-19	St. Charles
June 12-16	St. Charles
July 17-21	St. Charles
Aug. 14-18	St. Charles
Sept. 25-Oct. 6	St. Charles
Oct. 30-Nov. 10	St. Charles
Dec. 4-15	St. Charles

### Planning and Reporting I Course

Provides A/S personnel with one and one-half to two years of experience with a basic understanding of transaction processing systems. Course introduces participants to the underlying concepts and principles common to all transaction processing systems, the basic functions performed by each of the transaction processing systems discussed, the key considerations in the design of these systems and the crucial importance of transaction processing systems to the effectiveness of the planning and reporting systems.

The course consists of an overall introduction and an introduction to transaction processing systems, customer order processing and revenue systems, accounts receivable and cash receipts systems, accounts payable and cash disbursement systems and payroll systems. Broadly speaking, these systems capture, validate, control, classify, summarize and post source transactions, which provide data on the actual results of operations to the planning and reporting systems to compare the actual results to the planned results and generate planning and control reports for management.

Presentations consist of a single volume of text with associated printed visual aids. Following each topic, students take self-graded posttests.

**Prerequisites:** Completion of the Administrative Services Staff Training School and the Information Processing Systems Installation School

One year of on-the-job experience, including some work on the design and/or installation of planning and reporting systems

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Planning and Reporting I School

Provides the participant with specialized technical knowledge of systems approaches to the development of planning and reporting systems. Presentations augment the experience the participant has gained from client assignments and prepare him or her to work under supervision at the senior level in designing and installing planning and reporting systems.

School is for A/S personnel with 18 to 24 months of experience in the division. Eighteen months of on-the-job experience is required.

Some of this experience must include work on the design and/or installation of planning and reporting systems. This school assumes the student recognizes typical situations encountered in the design and installation of planning and reporting systems.

The financial, marketing systems and manufacturing operations planning and reporting functions receive heavy emphasis. The school also provides the participant with further knowledge of techniques used in our productivity planning and reporting practice. In addition, the participants are exposed to selected modeling and quantitative techniques and information processing concepts as they apply to the design of planning and reporting systems.

**Prerequisites:** Completion of the local-office Planning and Reporting I Course

Completion of the Administrative Services Staff Training Course and School

**Advance Preparation:** None

**CPE Contact Hours:** 88

Dates	Location
Feb. 6-17	St. Charles
Apr. 17-28	St. Charles
June 12-23	St. Charles
Oct. 2-13	St. Charles
Dec. 4-15	St. Charles



## DEVELOPMENT II

### Information Processing Operating Systems/Virtual Storage Systems School

Provides A/S personnel who have six to 18 months of IP Systems installation experience with knowledge of the OS/VS facilities needed to code application programs efficiently.

The participant must have attended the Firm's Computer Fundamentals School or must have experience that indicates a fundamental knowledge of data processing concepts and assembler language programming. On-the-job programming experience in BAL or COBOL is also a requirement.

The school is structured around a series of case problems that use the Firm's computer system through remote job entry terminal equipment located at St. Charles. The school's objectives are to:

1. Enable the participant to compile and link-edit programs through the use of modularly designed segments
2. Give the participant practice in coding job control statements for all commonly used data management facilities
3. Give the participant practice in coding job control statements and utility control statements
4. Provide the participant with necessary skills and insight into —
  - a. Debugging programs
  - b. Maintaining data sets
  - c. Making use of device independence
  - d. Constructing systems and programs modularly
  - e. Using cataloged procedures
  - f. Applying COBOL coding techniques for VS
5. Introduce the participant to the contents and use of the Firm's OS manuals — *OS Technical Standards*, *OS Test Network* and *OS Standards*

**Prerequisites:** Completion of the Computer Fundamentals School

On-the-job programming experience in BAL or COBOL

Completion of the Administrative Services Staff Training School

**Advance Preparation:** None

**CPE Contact Hours:** 88

Dates	Location
Feb. 20-Mar. 3	St. Charles
Apr. 24-May 5	St. Charles
June 19-30	St. Charles
July 31-Aug. 11	St. Charles
Sept. 18-29	St. Charles
Oct. 16-27	St. Charles
Nov. 28-Dec. 9	St. Charles

### Information Processing LEXICON® School

Provides a sufficient understanding of the LEXICON data automation concept to enable the participant to (1) understand the impact of LEXICON on the traditional approach to preliminary systems design and systems installation; (2) install the Firm's LEXICON software facility in either a batch or an interactive environment; (3) prepare statements using the LEXICON input languages, relate these definitions to output systems documentation and utilize the facilities provided by LEXICON to develop business information systems and (4) train the client to manage and administer LEXICON effectively.

This school is for A/S staff with at least six months experience in the Administrative Services Division, including in-depth programming experience.

Topics covered include system concepts, benefits to user, LEXICON manuals, equipment requirements, use of LEXICON data structure, input languages, program generation, information processing, data administration and installation requirements.

The school provides participants with an explanation of each LEXICON statement and a description of all output reports. Participants work a case problem covering all aspects of LEXICON.

**Prerequisites:** Completion of the Computer Fundamentals School and in-depth programming experience

**Advance Preparation:** Reading the *LEXICON General Description Manual*

**CPE Contact Hours:** 40

## DEVELOPMENT II

### Dates

Aug. 28 - Sept. 1  
Mar. 7-9  
July 18-20

### Location

St. Charles  
  
St. Charles (COBOL — for  
medium- and large-sized  
businesses)

### MAC-PAC Competence Development Schools

Provides an understanding of the systems capabilities and detail knowledge needed to supervise the design and installation of systems using the Firm's Manufacturing Control Systems installation aid. Designed for A/S managers and seniors who have spent significant time in the design and installation of manufacturing control systems.

Participants work case studies utilizing the IBM System/3 computer located at St. Charles (for the RPG II version) or the Firm's computer system through remote job entry terminal equipment located at St. Charles (for the COBOL version). The case studies provide the participant with a detailed knowledge of MAC-PAC installation aid capabilities.

**Prerequisites:** Completion of the Planning and Reporting I School

Seniors should be currently assigned or scheduled to be assigned to MAC-PAC engagements.

**Advance Preparation:** None

**CPE Contact Hours:** 24

### Dates

Sept. 11-14

### Location

St. Charles (RPG II — for small-  
and medium-sized businesses)

### Information Processing Data Base Management Systems Introduction to IMS Course

Introduces the concepts and facilities of IMS, an IBM software product used in the implementation of data base systems.

Provides background on how IMS reduces redundant data through a common data base, how IMS provides data independence, the IMS distinction between physical and logical data structure, hierarchical data structure elements for both logical structure and logical views of data base, what steps must be taken to prepare an application program for execution in an IMS batch region and the flow of information and control between an application program and DL/I. Prepares the participant to draw the hierarchical data structure of a specific data base, identify the characteristics of data that are important for application processing, predict how DL/I will respond to a program request based on the segment sensitivity and processing options, construct a logical hierarchical structure from a list of actual segment occurrences appearing in hierarchical sequence, trace the flow of information and control through the system during execution of an application program DL/I CALL and specify how a logical data base structure will change when a new segment type is added to a data base as well as to determine the effect of that change on an application program.

Course includes a pretest, five teaching blocks and a posttest. Course materials include four videotapes, four audiotapes and a textbook.

**Prerequisites:** For A/S personnel who have successfully completed the Firm's Information Processing Systems Installation Course and School or who have equivalent knowledge obtained outside the Firm

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## DEVELOPMENT II

### Information Processing Data Base Management Systems IMS Applications Programming Course

A continuation of the Introduction to IMS Course. Prepares the programmer for writing application programs in an IMS batch environment.

This specialized course is intended for A/S personnel who have been with the Firm for at least six months.

This course covers only the application programming facilities of IMS. Course schedule includes a pretest, nine teaching blocks and a posttest. The pretest is not required unless the student has prior knowledge of data management systems and is interested in identifying those sections of the course that could be omitted or skimmed. This course uses four videotapes, six audiotapes and three textbooks to present the subject matter.

**Prerequisites:** Information Processing Systems Installation Course and School

IP OS/VS Systems School

Introduction to IMS Course

ANS COBOL Course or equivalent COBOL programming training

For A/S personnel who are assigned to IMS engagements and who will come into close contact with applications programming in the IMS environment

**Advance Preparation:** None

**CPE Contact Hours:** 16

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.



## DEVELOPMENT III

### Information Processing Systems Design Course

Trains the participant to perform EDP preliminary systems design work at the detail level in accordance with a work program and under normal supervision. The course provides detail familiarization with the organizational and administrative aspects of computer systems design projects, the Firm's policies and approaches to EDP systems design projects, each segment of the Preliminary Systems Design Phase of a project and the system design concepts associated with complex systems such as interactive and data base.

Course is designed for A/S staff personnel who have been with the Firm from 21 to 33 months and have EDP systems installation experience but little or no EDP systems design experience.

Course uses text material and audiotapes to present the subject matter. Self-checking posttests measure students' attainment of topic objectives.

**Prerequisites:** Prior attendance at the Information Processing Systems Installation School

At least one year of detail installation experience (other than programming)

Assignment to first IP Systems Design work within at least eight weeks following the Information Processing Systems Design Course and subsequent Information Processing Systems Design School

Registration for follow-on Information Processing Systems Design School at St. Charles within four weeks

**Advance Preparation:** None

**CPE Contact Hours:** 32

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Information Processing Systems Design School

Prepares A/S personnel with at least one year of detail EDP systems installation experience other than programming to perform EDP preliminary systems design work at the detail level, in accordance with a work program and under normal supervision.

School provides detail coverage of technical design topics, including computer configurations and timing, real-time design and data base management techniques. Case work is essential to reinforce concepts covered in the local-office course and to provide a basis for student discussion and analysis.

The school is structured into two main units: an integrated case problem covering the various segments of a design project and lectures on the techniques involved in some of the more technical tasks of design that cannot be adequately covered in the local office.

The Firm's Systems Planning Charts detail the specific segments covered by the lectures and case problem. School emphasizes documenting the information requirements in terms of business and process functions, designing the process flow for both a batch-oriented and an interactive system, selecting specific control techniques, determining the file content and organization, estimating computer timing, configuring a computer system, estimating manpower requirements, developing an installation schedule and determining the system cost and benefits.

**Prerequisites:** Completion of the Information Processing Systems Design Course

Prior attendance at the Information Processing Systems Installation School

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
Feb. 6-10	St. Charles
Apr. 10-14	St. Charles
June 5-9	St. Charles
July 24-28	St. Charles
Aug. 21-25	St. Charles
Sept. 25-29	St. Charles
Oct. 30-Nov. 3	St. Charles
Dec. 11-15	St. Charles



## DEVELOPMENT III

### Minicomputer Systems School

Provides A/S seniors and managers with a general understanding of minicomputer characteristics, the ability to install minicomputer-based systems, a knowledge of the limitations of minicomputers and guidelines to be used in designing minicomputer-based systems.

The school is organized into three major units:

1. Introduction to Minicomputers
2. Hands-on Training
3. Practice Guidelines

The Introduction to Minicomputers unit traces the evolution of minicomputers, discusses the major hardware and software characteristics of minicomputers, addresses the Distributed Systems concept, discusses the primary advantages and limitations of minicomputers and describes the offerings of the major vendors.

The Hands-on Training unit is conducted at vendor locations close to St. Charles: Digital Equipment Corp. (DEC), Data General and Hewlett-Packard. Each session is two days in length. The vendor training is directed toward implementing a basic system on the vendor's equipment and covers the query language/report writer, the screen definition or data entry language and the data base language.

The Practice Guidelines unit presents guidelines for the selection of minicomputer hardware and software and for the design and installation of minicomputer-based systems.

**Prerequisites:** Prior attendance at the Information Processing Systems Design School

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
Feb. 27-Mar. 3	St. Charles
May 1-5	St. Charles
Oct. 2-6	St. Charles

### Information Processing Internal Facilities Management School

Provides an understanding of IFM concepts and techniques sufficient to enable the participant to perform IFM reviews.

School uses case problems to reinforce principles presented in the lecture and discussion topics. These topics include utilization reporting, capacity and utilization analysis, scheduling principles, scheduling systems, management reporting software, performance analysis, cost allocation and charging, performance measurement concepts and monitoring, OS and DOS installation considerations and the Firm's approach to IFM reviews as demonstrated in specific engagement examples.

**Prerequisites:** For A/S managers and experienced seniors with an in-depth technical background in our Information Processing Practice

Information Processing Systems Design School

IP OS/VS Systems School

**Advance Preparation:** None

**CPE Contact Hours:** 32

Dates	Location
Apr. 24-27	St. Charles
Nov. 6-9	St. Charles

### Distribution Control Systems Installation School

Trains the student to install the Firm's Distribution Control System software in a client environment. Includes an introduction to interactive systems, the hardware environment for the DCS software, an introduction to the systems software of Interdata and DCS and an overview of the applications supported.

Presentations include a demonstration of the DCS software on Interdata Computer Equipment and hands-on operation of the system by students. Covers the approach to installation of DCS, including defining changes needed and how the changes can be incorporated into the software.

## DEVELOPMENT III

**Prerequisites:** Computer Fundamentals School  
Information Processing Systems Installation School  
Information Processing Systems Design School

**Advance Preparation:** None

**CPE Contact Hours:** 48

Dates	Location
Jan. 30-Feb. 4	Chicago
Apr. 3-8	St. Charles
May 8-13	St. Charles

### Advanced LEXICON Workshop

Updates A/S seniors and managers on the current capabilities of the LEXICON software; includes a discussion of current problems, competitive products and the general direction and emphasis of future enhancements to LEXICON.

A combination of presentations and round-table discussions cover the data dictionary, input processor, report writer and interface with data base management systems. Data administration and application software considerations are also examined. The topics for round-table discussion include Information Processing facilities in a data base environment and other LEXICON topics of current interest to the participants.

**Prerequisites:** Current experience in the use of LEXICON

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
Mar. 6-9	St. Charles

### Planning and Reporting II Course

Provides general background information regarding the industries covered in the follow-on school — banking, general contracting, general retailing, hospitals, insurance and public utilities.

All A/S personnel should take the course between their 24th and 36th months in the division. This

course and the follow-on school in St. Charles are prerequisite to the Administrative Services Engagement Administration Course and School.

The topics covered in this course include, for each industry, an overview of key operational activities, with emphasis on the services provided by the industry; typical organizational structure and responsibilities; typical system requirements in terms of the significant systems needed and their interrelationships; external factors with a significant impact on the industry, including competition and regulation; key factors that must be planned and controlled to assure the success of the organization; and unique terminology.

This course maximizes the effectiveness of the Planning and Reporting II School by giving the participants the understanding of basic industry information needed to absorb the more advanced topics dealt with in the school. The entire week of the school at the Center for Professional Development is available for discussion of these more advanced topics

Course uses text material to present the subject matter. Self-checking posttests measure attainment of topic objectives

**Prerequisites:** Prior attendance at the Planning and Reporting I School and the Information Processing Systems Design School

**Advance Preparation:** None

**CPE Contact Hours:** 16

**Dates and Location:** Various. Conducted in operating offices according to need and scheduling of follow-on school in St. Charles. Dates in any office are available from the local-office Director of Training.

### Planning and Reporting II School

Broadens planning and reporting systems competence by examining key systems areas across a range of industries.



**DEVELOPMENT III**

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The school is for A/S personnel with 24 to 36 months experience in the division.

Upon completing the school, the participants should be able to work at the senior level with normal supervision in the design and installation of planning and reporting systems in these industries: banking, general contracting, general retailing, hospitals, insurance and public utilities.

The school familiarizes participants with the basic inputs, outputs, system functions and corresponding company operations associated with each application area covered so they will be capable of (1) making effective use of Firm reference materials, (2) intelligently discussing the fundamental requirements of the application areas with Firm and client personnel and (3) performing basic review and design activities.

**Prerequisites:** Completion of the Planning and Reporting II Course

Prior attendance at the Planning and Reporting I School and the Information Processing Systems Design School

**Advance Preparation:** None

**CPE Contact Hours:** 40

<b>Dates</b>	<b>Location</b>
Jan. 30-Feb. 3	St. Charles
Mar. 13-17	St. Charles
May 15-19	St. Charles
June 26-30	St. Charles
Aug. 7-11	St. Charles
Sept. 25-29	St. Charles
Nov. 28-Dec. 2	St. Charles

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**Administrative Services  
Engagement Administration Course**

Acquaints participants with Firm practices and policies regarding the administration of A/S engagements.

Intended for A/S personnel who have been in the division from three to four years. This course follows the Planning and Reporting II Course and School and the Information Processing Systems Design Course and School.

The topics covered include our administrative services practice and an introduction to management control of the systems function. The course emphasizes establishing effective management involvement, organizing and motivating the systems department and providing management reporting requirements. There are also discussions and lectures on managing changes, systems planning, key elements for successful engagement administration, defining the engagement, administration of the preliminary systems design project, administration of the systems installation project, the small business environment, service bureau considerations, Firm software, investigating application software and the quality assurance program. Self-checking posttests follow most of the topics.

**Prerequisites:** Registration for the follow-on A/S Engagement Administration School in St. Charles within six weeks

Prior attendance at the Planning and Reporting II Course and School and the Information Processing Systems Design Course and School

**Advance Preparation:** None

**CPE Contact Hours:** 16

**Dates and Location:** Various. Conducted in operating offices according to need and scheduling of the follow-on school in St. Charles. Dates in any office are available from the local-office Director of Training.

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**Administrative Services  
Engagement Administration School**

Acquaints participants with Firm policies; practices and approaches to planning, administering and controlling administrative services engagements.

## DEVELOPMENT III

Attendance is limited to personnel with a minimum of three years experience in administrative services work.

Participants should be ready to assume responsibility for directing all or a significant portion of an engagement after successful completion of the school.

The school is organized into four units: Introduction, Administering the Engagement, Effective Communications and The Firm's A/S Practice.

The major part of the school is devoted to the unit on Administering the Engagement. This unit covers a wide scope, from the quality assurance program through the administration of engagements involving advanced data processing technology. Topics include administering the PDS, the PSD and the Systems Installation. A set of integrated case studies helps to generate discussions.

The unit on Effective Communications includes a topic on developmental counseling and a second topic on corrective counseling.

The last unit — The Firm's A/S Practice — is a presentation given by the Managing Director of Functional Services.

**Prerequisites:** Administrative Services Engagement Administration Course

IP Systems Design School

Planning and Reporting II School

**Advance Preparation:** None

**CPE Contact Hours:** 32

Dates	Location
Jan. 9-12	St. Charles
Feb. 13-16	St. Charles
Apr. 3-6	St. Charles
May 8-11	St. Charles
June 19-22	St. Charles
Aug. 28-31	St. Charles
Sept. 18-21	St. Charles
Oct. 9-12	St. Charles
Nov. 6-9	St. Charles

### Physical Distribution Workshop

Participants discuss current physical distribution activities and review the state of the art. Workshop provides support for practice development of distribution systems engagements.

**Prerequisites:** For partners, managers and experienced seniors who have worked on distribution systems engagements or who need competence improvement in relation to current engagements or practice development plans

**Advance Preparation:** None

**CPE Contact Hours:** 8

Dates	Location
May 26	St. Charles

### Statistical Sampling Workshop for Administrative Services

Provides a background for the application of sampling methods in accounting, audit, marketing and productivity. Course prepares participants to (1) ascertain that statistical assumptions are sound and sampling techniques are properly applied, (2) properly evaluate sampling results, (3) assist audit personnel in developing and executing statistical sampling plans and (4) work with statistical sampling software.

The workshop consists of lectures, self-study material and discussions of several case studies of statistical sampling applications in A/S engagements. Topics covered in the workshop include a review of the statistical inference process, judgmental vs. statistical sampling plans, sampling methods, sample sizes, review of regression analysis, variable and attribute estimation in audit work, statistical quality control, statistical time-sharing software and development and execution of statistical sampling plans.

## DEVELOPMENT III

**Prerequisites:** An aptitude for or interest in the application of quantitative techniques to business problems

**Advance Preparation:** None

**CPE Contact Hours:** 24

<b>Dates</b>	<b>Location</b>
May 22-24	St. Charles

### Construction Management School

Provides participants with a working knowledge of the major activities on the Planning Chart for Construction Project Management Systems. Reinforces the practical application of specific techniques with the presentation of case studies. The "how-to" aspects of system development include the following: cost and resource estimating; types of contracts and related planning and control specifications; project administration, including reserve management and change order control; design engineering planning and control activities; material planning, procurement and control; support facilities and equipment planning and control; work package definition and budgeting for labor planning and control; performance reporting, including key factors, profit estimating and financial reporting; networking and scheduling; and project accounting.

**Prerequisites:** For A/S managers and seniors who have worked or are working on construction planning and control engagements and persons with active promotional opportunities and a demonstrated interest in this area

**Advance Preparation:** Review of the *Construction Project Management System Definition Reference Manual*

Review of "Work Packaging and Scheduling in the Construction Environment"

Review of the *Contract Construction Industry Reference Binder*

**CPE Contact Hours:** 24

<b>Dates</b>	<b>Location</b>
May 8-12	St. Charles
Oct. 23-27	St. Charles

### Inventory Shrinkage School

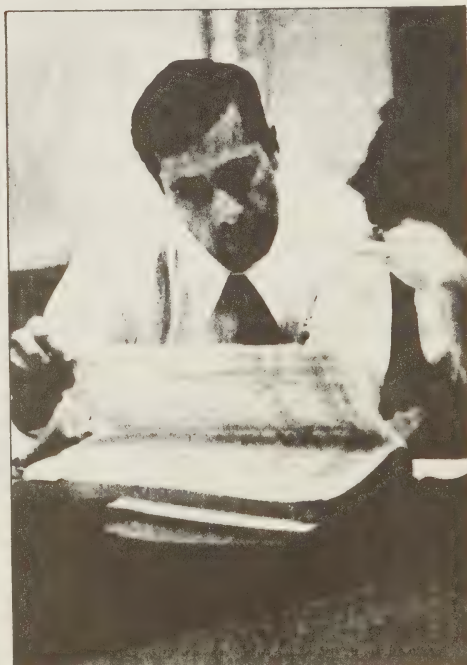
Familiarizes participants with the causes of inventory shrinkage. Presents guidelines for the conduct and administration of inventory shrinkage reviews. Provides background orientation for persons with career interests in manufacturing and for persons specifically interested in inventory accounting.

**Prerequisites:** For managers and experienced seniors with some professional experience in inventory accounting, production reporting or inventory control

**Advance Preparation:** None

**CPE Contact Hours:** 8

<b>Dates</b>	<b>Location</b>
Apr. 7	St. Charles
July 21	St. Charles



## DEVELOPMENT IV

### Distribution Control Systems Practice Development School

Familiarizes A/S partners and managers with the features and benefits of DCS in terms of distributor's needs as well as with the tools available for promoting DCS.

The school also includes discussions on DCS architecture and hardware, DCS practice development plans and the plans and schedules for releasing the system.

Participants review the *General Description Manual*, the *Checklist of Features*, the *Book of Reports and Screens*, the work programs and the user manuals that accompany the software. A videotape, slide presentation and system demonstration are presented as practice development tools. Participants work a case-problem application of the system using the on-site computer.

**Prerequisites:** For A/S partners and managers who have primary responsibility for the practice development activity related to DCS

**Advance Preparation:** Pamphlet on the needs and profile of a distributor

**CPE Contact Hours:** 16

<b>Dates</b>	<b>Location</b>
Nov. 6-7	St. Charles

### Professional Competence in Information Processing Seminar

Acquaints participants with current Firm practices and approaches to computer systems and services and trains participants to identify client information processing areas in need of improvement and to evaluate our capabilities to assist clients.

A specialized, conducted seminar for all audit and tax partners and managers who have at least four years experience with the Firm. This seminar is not related specifically to any other Firm training courses or schools.

Describes proven approaches for bringing the Firm's information processing competence to bear on serving client needs. The material supports and complements the client service team approach by providing answers to the following:

What should everyone know about computers?

What has the computer manufacturer done lately?

Why can't management control their computers?

Building a computer system — art or science?

Management of computer operations — is Ross Perot right?

Who helps our clients solve their computer problems?

Seminar topics are heavily dependent upon group discussions conducted after each topic presentation. Initial presentations include videotapes, audiotapes and reading material.

**Prerequisites:** All audit and tax partners and managers

**Advance Preparation:** None

**CPE Contact Hours:** 16

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Information Processing Internal Facilities Management Workshop

Acquaints participants with the Firm's tools and approaches to stimulate the growth of our IFM practice. Participants discuss the economic and other benefits of an IFM engagement and the latest innovative tools and techniques available to improve the computer operations function.



## DEVELOPMENT IV

The topics covered in the workshop include:

How operations people view the computer performance management (IFM) function

Recent IFM engagement case histories

Proven approaches to the application of cost allocation and charge-back techniques

The economic and other benefits obtainable from program optimization through the use of software monitors

A vendor presentation by TESDATA on their new automated scheduling software

A presentation of performance and tuning techniques to be considered with IBM's IMS data base system

An introduction to Software Physics (including a definition) and its application to computer performance and capacity management

**Prerequisites:** For A/S partners, managers and experienced seniors with prior or current experience on IFM engagements and A/S partners and managers with current promotional opportunities and a demonstrated interest in IFM

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Jan. 16-17	St. Charles

### Advanced Marketing Seminar

Presents leading-edge marketing systems concepts and computer software so that participants can recognize proposal opportunities for these types of engagements. Topics include:

Survey of marketing controls

Market studies

Current marketing issues — how consultants can help

Marketing information system software (DCS-COBOL)

Order entry system software (MAC-PAC/RPG II)

Case studies identify common business problems in current client engagements.

A one-day skills upgrade session on marketing systems precedes the workshop as a review for Advanced Marketing Seminar participants who require a refresher in marketing-related business concepts and problems and who have not attended the Planning and Reporting I School. Topics include:

Product management

Sales management

Services management

Symptoms of business problems

Practice development tips

Case studies and the marketing reference binders support each topic.

**Prerequisites:** This workshop is for A/S personnel with specific responsibility for marketing systems, DCS software or MAC-PAC engagements.

Also for the designated marketing planning and reporting liaison person(s) in each office

**Advance Preparation:** Preparation of a client marketing systems problem for purposes of group discussion on Day 2

**CPE Contact Hours:** 8 for Skills Upgrade Session  
16 for Advanced Seminar

Dates	Location
May 1-3	St. Charles

### Advanced Administrative Services Seminar

Designed to present and discuss significant developments, Firm plans and environmental aspects of our practice in planning and reporting systems and information processing systems.

Two major topic sessions are held: plenary sessions, which cover topics of general interest to the Administrative Services Division, and concurrent sessions, which are oriented toward new practice areas, installation aids and practice development aids.

**Prerequisites:** For A/S partners and experienced managers

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
Mar. 20-22	St. Charles



# U.S. BASIC AND INTERMEDIATE

## Basic Tax Concepts Course

Acquaints inexperienced staff accountants with basic tax concepts, introduces them to the tax implications of business problems and prepares them for the Basic U.S. Tax School.

This course is for staff accountants who have recently entered the Tax Division of the Firm.

Topics covered include accounting periods and methods, gross income and exclusions, sales and other dispositions of property, capital gains and losses, deductions, capital recovery, inventories, losses and bad debts and computing and paying the tax. Also included are topics introducing partnerships, corporations (including Subchapter S), fiduciary income taxation and estate and gift taxation.

The course is administered in each local office where a participant is preparing for Basic U.S. Tax School. Advisers in each office monitor the progress of participants through completion of the 14 units of study. A series of pretests and posttests measures comprehension of the material covered by the course. While evaluating a participant's work, an adviser is available to answer questions and, where appropriate, make supplemental study assignments.

**Prerequisites:** Registration to attend Basic U.S. Tax School

**Advance Preparation:** None

**CPE Contact Hours:** 80

**Dates and Location:** Various. Conducted in local offices as needed, usually commencing at least three weeks before each session of the Basic U.S. Tax School.

## Basic U.S. Tax School

Provides a solid background in tax concepts applicable to individuals and businesses, teaches participants to recognize tax implications of client business problems and enables participants to

apply tax skills and knowledge to the solution of business problems.

This school is designed for first-year tax staff accountants without equivalent tax experience or training.

This school covers in detail the fundamental tax principles of gross income and exclusions, allowable deductions and credits, sales and dispositions of property, inventories, accounting periods and methods and methods of computing the tax. It also includes an overview of the business and tax considerations of forms of doing business; taxation of corporations (including Subchapter S), partnerships and fiduciaries and the estate and gift transfer tax system. The school emphasizes the usage of the Internal Revenue Code and regulations.

Methods of instruction include problem solving, group discussion and short lectures.

Instructors monitor the performance of each participant and send a special evaluation report to the participant's office.

**Prerequisites:** Successful completion of the 80-hour Basic Tax Concepts Course in the local office, including submission of a report to the Tax Training Coordinator that gives the test scores for all units of study and certifies successful completion of assigned work

**Advance Preparation:** None

**CPE Contact Hours:** 44

Dates	Location
May 15-20	St. Charles
July 24-29	St. Charles
Oct. 16-21	St. Charles
Nov. 6-11	St. Charles
Dec. 4-9	St. Charles

## U.S. BASIC AND INTERMEDIATE

### Introduction to Intermediate U.S. Tax School — Session A

Prepares participants for classroom consideration of more advanced technical concepts. It builds on Basic U.S. Tax School training and on-the-job experience.

This course is provided for staffmembers in their second or third year with the Tax Division (or for those with equivalent experience and training).

Intermediate Tax School Advisers administer this course in the local offices. They monitor the progress of each participant through the 11 units of study and answer questions. The advisers are responsible for certifying that each participant has completed the course successfully. This certification is based on discussions with the participant and review of written solutions to problems.

Topics of study include forms of business organization, Subchapter S corporations, partnerships, organizing a corporation, consolidated returns, inventories, accumulated earnings tax, personal holding companies, compensation techniques and ethical standards.

**Prerequisites:** Registration to attend Intermediate U.S. Tax School — Session A

**Advance Preparation:** None

**CPE Contact Hours:** 43

**Dates and Location:** Various. Conducted in local offices as needed, ordinarily commencing at least two weeks prior to each session of Intermediate U.S. Tax School.

### Intermediate U.S. Tax School — Session A

Builds on Basic U.S. Tax School training and on-the-job experience. The Intermediate U.S. Tax Schools introduce more advanced technical concepts. Session A is one of two separate schools for staffmembers in their second or third year with the Tax Division (or for those with equivalent experience and training).

Session A emphasizes forms of business organization, Subchapter S corporations, partnerships, organizing a corporation, consolidated returns, inventories, accumulated earnings tax, personal holding companies, compensation techniques and ethical standards.

Classroom sessions stress discussion of case studies, emphasizing practical applications of advanced tax concepts to business situations. Presentations include videotapes, audiotapes and short lectures.

Faculty members monitor each participant's performance during the school and prepare an evaluation report that is sent to the local office.

**Prerequisites:** Successful completion of Introduction to Intermediate U.S. Tax School — Session A in the local office, including submission of a report to the Tax Training Coordinator certifying successful completion of assigned work

**Advance Preparation:** None

**CPE Contact Hours:** 44

Dates	Location
May 8-13	St. Charles
June 26-July 1	St. Charles
July 31-Aug. 5	St. Charles
Oct. 9-14	St. Charles
Oct. 23-28	St. Charles

### Introduction to Intermediate U.S. Tax School — Session B

Prepares participants for classroom consideration of more advanced technical concepts. Builds on Basic U.S. Tax School training and on-the-job experience.

This course is provided for staffmembers in their second or third year with the Tax Division or for those having equivalent experience and training.

Intermediate Tax School Advisers administer this course in the local offices. They monitor the progress of each participant through the 11 units of

## U.S. BASIC AND INTERMEDIATE

study and answer questions. The advisers are responsible for certifying that each participant has completed the course successfully. This certification is based on discussions with the participant and review of written solutions to problems.

Topics of study include dividends, redemptions, liquidations, reorganizations, carry-overs in tax-free and taxable acquisitions, tax accrual reviews, accounting for Federal income tax, buy/sell considerations and U.S. taxation of multinational activities.

**Prerequisites:** Registration to attend Intermediate U.S. Tax School — Session B

**Advance Preparation:** None

**CPE Contact Hours:** 45

**Dates and Location:** Various. Conducted in local offices as needed, ordinarily commencing at least two weeks prior to each session of Intermediate U.S. Tax School.

### Intermediate U.S. Tax School — Session B

Builds on Basic U.S. Tax School training and on-the-job experience. The Intermediate U.S. Tax Schools introduce more advanced technical concepts. Session B is one of two separate schools for staffmembers in their second or third year with the Tax Division or for those with equivalent experience and training.

Session B emphasizes dividends, redemptions, liquidations, reorganizations, carry-overs in tax-free and taxable acquisitions, tax accrual reviews, accounting for Federal income tax, buy/sell considerations and U.S. taxation of multinational activities.

Classroom sessions stress discussion of case studies, emphasizing practical applications of advanced technical tax concepts to business situations. Presentations include videotapes, audiotapes and short lectures.

Faculty members monitor each participant's performance during the school and prepare an evaluation report that is sent to the local office

**Prerequisites:** Successful completion of Introduction to Intermediate U.S. Tax School — Session B in the local office including submission of a report to the Tax Training Coordinator certifying successful completion of assigned work

**Advance Preparation:** None

**CPE Contact Hours:** 44

Dates	Location
June 26-July 1	St. Charles
July 31-Aug. 5	St. Charles
Oct. 9-14	St. Charles
Oct. 23-28	St. Charles



## U.S. SPECIALIZED TAX COURSES

**U.S. specialized tax courses** cover significant tax and business considerations in a tax specialty area or selected industry at an intermediate or advanced level. Firmwide specialists lead small discussion groups to assure proper coverage of technical principles and tax planning possibilities and to provide ample opportunity for exchanging on-the-job experiences.

Participants use the case-study approach to discuss clients' practical business problems and to explore alternative solutions and opportunities for client service. Experienced discussion leaders relate the course material to the broader scope of the Firm's total tax and audit practice.

**Prerequisites:** For partners, managers or experienced seniors in the Tax Division of a U.S. office who need higher-level training in a tax specialty or industry indicated by actual or expected client responsibilities

There are special prerequisites for certain courses.

**Advance Preparation:** Each leader determines the advance preparation for the course; it may include study of business cases, problem solving, reading assignments, etc. Participants receive assignments several weeks in advance of the course dates.

### Banking

Provides personnel who have experience with banking clients with a better understanding of the banking industry, its problems and tax considerations. The first phase of the course covers such technical areas as planning, accrual reviews, accounting methods and current industry problems. The second phase is a management game that uses a computer simulation model, allowing participants to operate a bank in a changing economic environment.

**Prerequisites:** Prior substantive experience with bank clients

**CPE Contact Hours:** 23

<b>Dates</b>	<b>Location</b>
July 17-19	St. Charles

### Consolidated Returns

Provides a detailed working knowledge of the consolidated return regulations. Extensive use of case studies clarifies major problem areas and highlights current interesting client situations. The program explores the impact of the 1975 and 1976 Tax Acts on consolidated return filings. Includes proposed and anticipated regulatory changes that will impact our clients.

**CPE Contact Hours:** 31

<b>Dates</b>	<b>Location</b>
May 22-25	St. Charles

### Corporate Reorganizations and Related Problems

Provides substantive coverage of Subchapter C, with strong emphasis on practical applications of our Firm experiences in this area. Topics discussed include transfers to controlled corporations, reorganizations in general, triangular and reverse mergers, recapitalizations, distributions of stock and stock rights, Section 306 stock, carry-overs in reorganizations, taxable acquisitions and liquidations, redemptions, divisive reorganizations, ruling requests and bridging the gap between buyer and seller. Course also includes a comparison of tax and accounting rules for business combinations and separations. Case studies are used extensively.

**Prerequisites:** Tax partner or manager status

**CPE Contact Hours:** 31

<b>Dates</b>	<b>Location</b>
Oct. 23-26	St. Charles

### Family Tax Planning

Provides an in-depth working knowledge of unified transfer and fiduciary income taxation, the interrelationships of income tax and transfer tax planning and the Firm's policies and practices in



# U.S. SPECIALIZED TAX COURSES

this area of client service. Course emphasizes potential problem areas and planning possibilities resulting from the 1976 Tax Reform Act and other proposed or current legislation.

Specific topics include the structure for taxing transfers during lifetime and at death, charitable gifts, valuation problems, usage of corporate reorganizations, usage and taxation of trusts, life insurance, marital deduction, liquidity, postmortem planning and community property considerations. Case studies apply course material to practical situations. Attendance the first day is optional for each participant; it covers trust and transfer taxation concepts on a fairly fundamental level and is provided for those whose experience or academic background is not extensive in this area.

**CPE Contact Hours:** 23 (31 hours for those attending optional first-day session)

Dates	Location
July 17-20	St. Charles

## Insurance Companies

An advanced-level course on the highly specialized taxation of life and casualty insurance companies and related areas. Emphasis is on deferred tax accounting, tax planning techniques, current developments and IRS/industry issues.

**CPE Contact Hours:** 15

Dates	Location
July 24-25	St. Charles

## Leasing

Provides detailed instruction on the leasing industry, its problems and opportunities. The course covers the differences between financial statement and tax accounting methods, current IRS ruling guidelines, status of leasing case law, economic analysis of leases from both a lessor's and lessee's viewpoint and the special tax problems of the noncorporate lessor.

**CPE Contact Hours:** 15

Dates	Location
July 6-7	St. Charles

## U.S. Taxation of Multinational Activities

Provides sufficient general understanding of the U.S. taxation of international operations to enable the participant to assist multinational clients and their executives in basic U.S. tax planning and resolving day-to-day problems.

Topics covered include the U.S. tax implications of forming and reorganizing foreign corporations, U.S. taxation of foreign earnings of U.S. corporations, U.S. taxation of foreign individuals and U.S. tax rules affecting U.S. citizens working abroad. A major tax planning segment emphasizes discussion of case studies.

**CPE Contact Hours:** 31

Dates	Location
Oct. 16-19	St. Charles

## Accounting Periods/Methods and Inventories

Provides in-depth working knowledge of significant tax considerations involved in the timing and methods of reporting income and deductions. Emphasizes inventory accounting (particularly LIFO); covers the installment method, long-term contracts and changes in accounting methods and comparison of tax rules and GAAP, where appropriate.

**Dates:** Last offered in 1977

## Capital Recovery

Designed for in-depth discussion of tax techniques and options available for reduction and recovery of capital investment in business assets. Specific topics include investment credit, intangibles, amortization, tax basis, useful life, obsolescence, salvage and depreciation methods (including ADR/CLS methods); various differences between tax methods and GAAP also are discussed.

**Dates:** Last offered in 1977



## **U.S. SPECIALIZED TAX COURSES**

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### **Farming**

Familiarizes participants with specialized income and estate taxation from three viewpoints: (1) tax provisions applying to agriculture, (2) farming industry applications of general tax provisions and (3) probable tax trends in the industry. Emphasizes tax planning through discussion of case studies.

**Dates:** Last offered in 1976

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### **Partnerships/Subchapter S Corporations**

In-depth discussion of partnerships and Subchapter S corporations as business vehicles with emphasis on the tax advantages and detriments and the potential uses of each entity. The first topic covers partnerships in terms of organization and operation of a partnership; allocation of income, deduction, credits, gains and losses; guaranteed payments; basis; distributions and liquidations; avoidance of association attributes and tax planning. The second discussion topic is the Subchapter S corporation in terms of elections and consents, distributions, net operating losses, planned and unplanned terminations, reorganizations, tax shelters and tax planning opportunities.

**Dates:** Last offered in 1977

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### **Real Estate**

Provides a working knowledge of the tax and business considerations involved in real estate investments and operations.

Topics covered include forms of holding real estate; acquisition, financing, operations, exchanges and disposition of real estate; tax incentives; problems of developers and other related areas. There is an optional first-day review of basic real estate taxation principles for participants with limited experience in the industry. The remaining three days provide in-depth coverage of the industry, emphasizing discussions of case studies representing practical business situations.

**Dates:** Last offered in 1977

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### **Regulated Industries**

Provides a working knowledge of the special tax considerations involved in the operations of electric, gas, water and telephone companies.

Topics covered include utility plant (depreciable vs. nondepreciable), methods of depreciation, unbilled revenue, advances for and contributions in aid of construction, deductible vs. capital expenditures, losses upon retirement of property and the investment tax credit.

**Dates:** Last offered in 1975

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### **State Taxes/Multistate Operations**

An in-depth study of state taxes in the context of multistate operations. The case-study-discussion approach emphasizes planning techniques for reducing such taxes. This course does not include detailed analysis of the taxing systems of the various states and localities.

**Dates:** Last offered in 1976

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### **Tax Basis/Earnings and Profits Determinations**

Focuses on the role of earnings and profits in many areas of our tax practice, including distributions, liquidations, reorganizations, consolidated returns and international taxation. Emphasis is on calculation of domestic and foreign earnings and profits; preparation of a report acceptable to the IRS, including an example of an earnings and profits study and computer time-sharing and other aids available to assist in an earnings and profits study.

**Dates:** Last offered in 1976

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## U.S. SPECIALIZED TAX COURSES

### Tax-Exempt Organizations

Substantive coverage of the tax considerations involved in the operation of private foundations, hospitals and other tax-exempt entities. Topics covered include retention of tax-exempt status,

unrelated business income, prohibited transactions, qualifying distributions and related tax-planning opportunities.

**Dates:** Last offered in 1977



# U.S. ADVANCED TAX COURSES

## United States

### Tax Partner/Manager Seminars

Enable tax partners and managers to update their technical knowledge and sharpen their skills, which they apply to their clients' business problems in the context of the current business and economic climate. Firmwide specialists conduct these highly technical one- and two-day seminars in small-group sessions. Case studies developed from actual client situations demonstrate practical applications. Seminars also spotlight current technical or industry developments.

The following tax specialties and selected industries are covered one or more times over a cycle of several years:

### TAX PRACTICE SPECIALTIES

Accounting for Income Taxes  
Accounting Methods/Periods and Inventories  
Compensation  
Consolidated Returns  
Corporate Reorganizations and Related Problems  
Depreciation and Property Problems  
Executive and Financial Planning  
Family Tax Planning  
Investment Credit  
Partnerships and Associations  
Personal Holding Companies  
State Taxes/Multistate Operations  
Subchapter S Corporations  
Tax Basis/Earnings and Profits Determinations  
Tax-Exempt Organizations  
Unreasonable Accumulations of Income  
U.S. Taxation of Multinational Activities

### INDUSTRY SPECIALTIES

Advertising  
Banking  
Contract Construction  
Extractive Industries  
Farming  
Food Distribution  
Forest Products  
General Retailing  
Hotel and Motel  
Insurance  
Leasing  
Petroleum and Gas  
Printing and Publishing  
Professional Services  
Real Estate  
Regulated Industries

Tax partners and managers attend one or more of the seminars offered each year to meet their personal training needs and those of their local offices.

**Prerequisites:** For partners and managers in Tax Division of U.S. offices who have a general understanding of the selected topics demonstrated by prior experience and/or formal training

**Advance Preparation:** Advance study assignment determined by each seminar leader (case studies, reading assignments, etc.)

**CPE Contact Hours:** 8 hours for each day of attendance

Dates	Location
Nov. 13-15	St. Charles

## U.S. ADVANCED TAX COURSES

### International Tax Specialists Meeting

Explores and discusses the latest in multinational tax problems and planning techniques by U.S. tax personnel experienced in this specialty area.

**Prerequisites:** For partners and managers designated by the Director — International Taxation (generally, those who have international tax responsibility in their local offices)

**CPE Contact Hours:** 15

**Dates**

May 10-11





## OTHER U.S. COURSES

### **Tax Terminal Operators and Aids Training Meeting**

Increases participants' understanding of certain time-sharing programs. The meeting emphasizes individual U.S. income tax applications. This session improves the efficiency of participants and enables them to work more effectively with professional personnel.

**Prerequisites:** For tax terminal operators and tax aids

**Dates**

Jan. 10-13

**Location**

Chicago

### **Tax Time-Sharing Coordinators Meeting**

Review of time-sharing computer programs applicable to our tax practice, including modifications of both Firm-developed programs and those available from outside vendors. Includes discussion of local-office experiences and ways to increase computer usage in our tax practice.

**Prerequisites:** For tax time-sharing coordinators and their assistants in U.S. offices

**CPE Contact Hours:** 15

**Dates**

Apr. 27-28

**Location**

St. Charles





# NON-U.S. MEETINGS

## CANADA

### Canadian Tax Partner and Manager Meeting

Updates tax partners and managers located in Canada on current technical developments in Canadian taxes and provides an opportunity for the exchange of views and experiences on topics of mutual interest.

Dates	Location
Oct. 16-17	Toronto

### Canadian Tax School

Acquaints staffmembers located in Canada having limited tax experience with basic and intermediate-level concepts of Canadian income taxation. Topics include corporate taxation, estate planning and partnership taxation.

**Advance Preparation:** Reading assignment requiring approximately 20 hours

Dates	Location
Aug. 14-26	Kingston

## EUROPE

### European Tax Partner and Manager Meeting

Updates tax partners and managers located in Europe on current technical developments in European and U.S. taxation and provides an opportunity for the exchange of views and experiences on topics of mutual interest.

Dates	Location
Nov. 30-Dec. 1	London

### European Tax School for Managers

Provides tax managers located in Europe with in-depth training in U.S. taxation of corporations.

**Prerequisites:** For first- or second-year tax managers in European offices

Dates	Location
Nov. 27-29	London

### European Tax Senior Development Course

Covers principles of U.S. taxation of corporations and European intercountry taxation.

**Prerequisites:** For tax seniors assigned to European offices

Dates	Location
Sept. 25-29	London

### U.S. Taxation of Individuals — Europe

Instructs new tax staffmembers in European offices in the preparation of U.S. individual income tax returns. Course content includes discussion of case studies and problems.

Dates	Location
Feb. 20-27	London

## LATIN AMERICA

### Latin American Tax Partner and Manager Meeting

Provides training for all tax partners and managers located in Latin America in technical, practice development and administrative matters of mutual interest.

**Prerequisites:** For tax partners and managers assigned to Latin American offices

Dates	Location
Aug. 28-30	São Paulo

## NON-U.S. MEETINGS

### Latin American Tax Partner Course

Provides training for all tax partners located in Latin America in identification and solution of common multinational tax practice, administrative, training and recruiting problems.

**Prerequisites:** For tax partners assigned to Latin American offices

<b>Dates</b>	<b>Location</b>
Aug. 31-Sept. 1	São Paulo

### Latin American Tax Manager Development Course

Provides training for all tax managers located in Latin America in transnational transactions and the fiscal significance of those transactions including leasing, technology transfer and intercompany pricing.

**Prerequisites:** For tax managers assigned to Latin American offices

<b>Dates</b>	<b>Location</b>
Aug. 31-Sept. 1	São Paulo

### Latin American Tax Senior Development Course

Offers instruction for tax seniors in job administration, implementation of standard procedures and communications.

**Prerequisites:** For new tax seniors (or experienced tax seniors as designated by head of Tax Division) assigned to Latin American offices

<b>Dates</b>	<b>Location</b>
Aug. 21-25	Rio de Janeiro

## AUSTRALIA/PACIFIC BASIN

### Australian Tax Partner and Manager Meeting

Updates tax partners and managers located in Australia on current technical developments in Australian taxes and provides an opportunity for the

exchange of views and experiences on topics of mutual interest. There is in-depth discussion of case reports, particularly in terms of tax planning.

**Prerequisites:** For tax partners and managers assigned to Australian/Pacific Basin offices

<b>Dates</b>	<b>Location</b>
July 5-7	Melbourne

### Australian Specialized Tax Course — International Taxation

Provides in-depth training in international tax planning.

Topics include tax treaties and other laws affecting cross-border activities of multinational enterprises.

**Prerequisites:** For tax managers and seniors assigned to Australian/Pacific Basin offices

<b>Dates</b>	<b>Location</b>
Sept. 11-12	Sydney

### Australian Specialized Tax Course — Reorganizations

Provides in-depth coverage of technical tax problems associated with reorganizations for experienced tax personnel located in Australia. Topics include circumstances creating a need for reorganization, relevance of income tax law and practice, loss-recoupment considerations, relevance of gift and stamp duties and accounting considerations.

**Prerequisites:** For tax managers and seniors assigned to Australian/Pacific Basin offices

<b>Dates</b>	<b>Location</b>
Apr. 17-18	Melbourne

## NON-U.S. MEETINGS

### Australian Intermediate Tax School

Introduces more complex aspects of Australian taxation to tax staffmembers and builds on their Basic Australian Tax School training.

**Prerequisites:** For tax staffmembers located in Australia who have previously attended the Basic Australian Tax School

<b>Dates</b>	<b>Location</b>
July 24-28	Sydney

### Australian Basic Tax School

Provides inexperienced tax staffmembers with training in the basic concepts of Australian taxation of individuals and corporations. Other topics covered include gift and stamp duties.

<b>Dates</b>	<b>Location</b>
May 21-27	Sydney

### U.S. Taxation of Individuals — Asia

Teaches tax staffmembers to prepare U.S. individual income tax returns for expatriate U.S. citizens. This course also trains participants to give tax advice on U.S. tax matters.

**Prerequisites:** For tax staffmembers assigned to Australian/Pacific Basin offices

<b>Dates</b>	<b>Location</b>
Jan. 16-20	Hong Kong



# INDUSTRY COMPETENCE

## Banking — Basic Industry Training School

Provides audit staffmembers who are to be assigned to bank audit work with a basic understanding of banking operations.

Topics include bank organization and operations, a discussion of the basic financial statements and a review of the procedures used in bank audit work.

Teaching methods include a sample set of working papers for major areas of the typical bank. School uses discussion groups extensively. Lectures by instructors, and slide and audiotape presentations where appropriate, supplement the sample working papers.

**Prerequisites:** Attendance at Firmwide Audit Staff Training School and probable assignment to bank audit work

**Advance Preparation:** Certain required reading

**CPE Contact Hours:** 24

Dates	Location
May 8-10	St. Charles
June 12-14	Dallas
July 10-12	Boston
July 31-Aug. 2	St. Charles
Aug. 16-18	Denver
Sept. 18-20	St. Charles
To be determined	Australia

## Banking — Intermediate Industry Training School

An extension of the Basic Industry Training School. Deals with the more sophisticated areas of banking activity.

Topics include the trust and international and leasing departments of banks. A case study illustrates preparation of audit working papers for income taxes.

Teaching methods include small-group discussions led by experts in banking work. There is extensive use of sample working papers and case studies.

**Prerequisites:** Attendance at the Basic Industry Training School or on-the-job experience in bank audits

**Advance Preparation:** Designated required reading

**CPE Contact Hours:** 24

Dates	Location
Apr. 17-19	St. Charles
June 26-28	St. Charles

## Banking — Advanced Industry Training School

Provides problem-solving exercises in bank audit work and allows participants to experience the effect of management decisions in operating a bank.

Teaching methods include case studies, discussions monitored by persons with expertise in problem areas and participation in a bank management simulator game.

**Prerequisites:** For professional personnel who have administered a bank audit

**Advance Preparation:** Certain required reading

**CPE Contact Hours:** 24

Dates	Location
May 22-24	St. Charles
Sept. 11-13	St. Charles

## Banking — Advanced Industry Specialty Meeting

Presents changes in auditing and reporting requirements resulting from pronouncements by the profession, the SEC and other professional and regulatory groups. Also covers other topics of current interest in the banking field.



## INDUSTRY COMPETENCE

Teaching methods primarily include discussions in small groups led by persons experienced in the bank auditing field.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Oct. 30-31(tentative)	St. Charles

### Banking — Basic Industry Training School (Latin America)

Provides basic instruction in banking and emphasizes banking conditions, customs and requirements peculiar to Latin America.

Teaching methods primarily include discussions in small groups led by persons experienced in the bank auditing field. All instruction is in Spanish.

**Prerequisites:** Probable assignment to bank audit work

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
June	Caracas

### Banking — International Training School

Provides a broad understanding of international banking operations and related accounting and auditing procedures to enable participants to work on and supervise international bank audit assignments. Topics include banking practices in countries other than the United States as well as problems faced by U.S. banks operating internationally.

Teaching methods include case studies and problem-solving exercises, small-group discussions and presentations by instructors experienced in international banking problems.

**Prerequisites:** For partners, managers and seniors in European offices

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Oct. 2-3(tentative)	London

### Brokerage — Basic Industry Training School

Provides audit staffmembers to be assigned to brokerage audit work with a basic understanding of brokerage operations.

Topics included are a review of brokerage organization and operations, special brokerage accounting problems, brokerage regulations and auditing procedures most commonly used in brokerage audit work.

Teaching methods include small-group discussions in which experts in brokerage auditing discuss the problems of the industry with participants; case studies are used extensively in this meeting.

**Prerequisites:** Probable assignment to brokerage audit work

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
Aug. 23-25	St. Charles



## INDUSTRY COMPETENCE

### Brokerage — Intermediate Industry Training School

Acquaints participants with the problems peculiar to the brokerage industry. Emphasis is on the problems of regulation, technical change and effective auditing techniques.

Teaching methods include case studies and problem-solving exercises dealing with the topics of the course as well as small-group discussions led by brokerage industry experts.

**Prerequisites:** Senior status

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
July 6-7	St. Charles

### Brokerage — Basic Midwest Stock Exchange Staff Training School

Provides a basic understanding of the Midwest Stock Exchange Service Bureau's computerized accounting systems and of how the MSE package is used in the Firm's audit work with brokerage clients.

Teaching methods include presentations by instructors expert in this topic.

**Prerequisites:** Probable assignment to brokerage audit work using these systems

**Advance Preparation:** None

**CPE Contact Hours:** 8

Dates	Location
To be determined	St. Charles

### Brokerage — Advanced Industry Specialty Meeting

Presents changes in auditing and reporting requirements, including recently published or proposed regulations of the New York Stock Exchange and the Securities and Exchange Commission. Also covers the AICPA Brokerage Industry Audit Guide and other topics of current interest.

Teaching methods include small-group discussions led by experts in the brokerage industry.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
May 1-2	St. Charles

### Civic Enterprises — Advanced Industry Specialty Meeting

Reviews significant developments in accounting principles for nonprofit organizations to assure a one-Firm approach to common audit problems involving contributions, functional allocation and related matters. Current topics in the specialty area also are discussed.

Teaching methods feature small-group discussions with presentations by Firm experts in the various topic areas.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
To be determined	St. Charles

# INDUSTRY COMPETENCE

## Contract Construction — Basic Industry Training School

Introduces participants to the contract construction industry — terminology, organization of companies, accounting practices, industry economics and company operations.

Teaching methods include lectures by experts and case problems to be worked in small-group sessions.

**Prerequisites:** Probable assignment to construction industry audit work

**Advance Preparation:** None

**CPE Contact Hours:** 32

Dates	Location
May 8-11	St. Charles

## Contract Construction — Intermediate Industry Training School

Provides technical training to enable participants to function effectively at the experienced-senior level on construction audit engagements.

The school covers those accounting and auditing areas peculiar to the construction industry and includes topics related to improving client company controls, operating and accounting procedures, information systems, etc.

Teaching methods include lectures by experts in this area of specialization and case problems to be solved by the participants in small-group sessions.

**Prerequisites:** Attendance at the Contract Construction — Basic Industry Training School or equivalent on-the-job experience

**Advance Preparation:** None

**CPE Contact Hours:** 27

Dates	Location
To be determined	St. Charles

## Contract Construction — Advanced Industry Specialty Meeting

Presents an in-depth analysis of contract construction problems from the auditor's viewpoint, including the basic request for proposals, the contractor's bid and proposal process, reporting during the performance period and the wrap-up processes.

Teaching methods include lectures by experts in this specialty and small-group discussions on actual cases from the Firm's practice.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
June 5-6	St. Charles

## Cooperatives — Advanced Industry Specialty Meeting

Acquaints participants with current developments in accounting, auditing, taxation and administrative services as they relate to this specialty.

Teaching methods include small-group discussions and actual case studies. Firm experts and executives of cooperative organizations lead the discussions.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Apr. 27-28	Europe (exact location to be determined)
To be determined	St. Charles

## INDUSTRY COMPETENCE

### **Employee Benefit Plans — Advanced Industry Specialty Meeting**

Familiarizes participants with current general business, accounting and auditing problems pertaining to employee benefits and pension plans.

Teaching methods include small-group discussions led by specialists in this industry.

**Prerequisites:** For partners and managers designated by industry head

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
To be determined	St. Charles

### **General Retailing — Basic Industry Training School**

Provides audit staffmembers to be assigned to retail audit work with a basic understanding of retailing operations.

Topics include a review of retail store organization and operations, special retail accounting problems such as inventory costing (LIFO, etc.) and auditing procedures most commonly used in retail auditing work.

Teaching methods include lectures by experts in this specialty and case problems to be solved by the participants in small-group sessions.

**Prerequisites:** Probable assignment to retail store audit work

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Dec. 11-12 (tentative)	St. Charles

### **General Retailing — Advanced Industry Specialty Meeting**

A forum for exchanging ideas and experiences relating to the retailing industry. Participants discuss problems in the fields of accounting, auditing, taxes and administrative services in the areas of general retailing, food distribution and foodstores.

Teaching methods include small-group discussions of the various problems; discussions are led by persons experienced in this specialty.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
Nov. 9-10 (tentative)	St. Charles

### **Government Contracts — Intermediate Industry Training School**

An in-depth analysis of government contracting problems from the auditor's viewpoint, including the basic request for proposals by the government, the contractor's bid and proposal process, reporting during the performance period and the wrap-up procedures.

Teaching methods include small discussion groups and lectures by instructors who are specialists in this field.

**Prerequisites:** Prior experience in government contract work

**Advance Preparation:** None

**CPE Contact Hours:** 8

Dates	Location
Sept. 15 (tentative)	St. Charles

## INDUSTRY COMPETENCE

### Government Contracts — Advanced Industry Specialty Meeting

A forum for discussion of topics relating to government contracts, including work in the non-defense-contract areas.

Topics cover recent developments in this field, accounting and reporting problems, regulatory aspects of the work, etc.

Teaching methods include lectures by Firm experts in this specialty area.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 8

Dates	Location
Sept. 14 (tentative)	St. Charles

### Health Care — Basic Industry Training School

Provides audit staffmembers to be assigned to hospital audit work with a basic understanding of the health care industry.

Topics include a review of hospital organization and operations, an explanation of Medicare programs and Medicare reports, special audit problems relating to hospitals, economics and regulation of the industry, etc.

Teaching methods include videotape presentations followed by question-and-answer periods and small-group instruction by experienced leaders and case problems solved by participants in small-group meetings.

**Prerequisites:** Probable assignment to hospital audit work

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
June 1-2	St. Charles
Oct. 26-27 (tentative)	St. Charles

### Health Care — Intermediate Industry Training School

Trains seniors to function competently on hospital audit engagements.

Topics include accounting and auditing problems and procedures in relation to hospital work, information on prospective rate setting (including the Firm's software package), job administration procedures, etc.

Teaching methods include lectures by experts in this specialty and case problems to be solved by participants in small-group meetings.

**Prerequisites:** Attendance at the Health Care — Basic Industry Training School or similar on-the-job experience

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
May 31-June 2	St. Charles

### Health Care — Advanced Industry Specialty Meeting

Updates partners and managers on current developments in the health care industry and on the status of practice development activities. Covers price controls, changes in Medicare and Medicaid laws and regulations, financing, shared computer systems, insurance problems and other topics of current interest.

## INDUSTRY COMPETENCE

Teaching methods include small-group discussions led by experts in the various topics.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 24

<b>Dates</b>	<b>Location</b>
Dec. 7-8 (tentative)	St. Charles

### Higher Education — Basic Industry Training School

Provides audit staffmembers to be assigned to college and university audit work with a basic understanding of the operations of these entities.

Topics included are organization and operation of universities, budgetary and fund accounting, distinctive financial statement presentation problems and specialized auditing techniques for this type of audit work.

Teaching methods include videotape presentations, audiotape lectures, case studies and workbooks, small-group discussions, etc.

**Prerequisites:** Probable assignment to college and university audit work

**Advance Preparation:** None

**CPE Contact Hours:** 24

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Higher Education — Advanced Industry Specialty Meeting

Presents current developments in the higher education field for those specializing in this area.

Topics include special audit reporting requirements, special audit opinion problems, compliance with HEW regulations, internal control features used primarily in this industry and the use of special reports for universities.

Teaching methods include small-group discussions, presentations by Firm experts in the higher education field, lectures by educators and university administrators, etc.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

**Dates and Location:** To be determined

### Hotels — Intermediate Industry Training School

Acquaints participants with problems in the hotel industry. Topics include organization and operations, management contracts, tax problems, management information systems, special control features used by hotels, etc.

Teaching methods include small-group discussions and lectures by specialists in the field.

**Prerequisites:** On-the-job experience in hotel industry audits

**Advance Preparation:** None

**CPE Contact Hours:** 16

<b>Dates</b>	<b>Location</b>
To be determined	St. Charles



## INDUSTRY COMPETENCE

### Insurance — Basic Industry Training School

Provides audit staffmembers to be assigned to insurance industry audit work with a basic understanding of the industry and its problems. Topics include matters of valuation, recognition of income, financial statement reporting, specialized auditing techniques, etc.

Teaching methods include audiotape lectures with workbook illustrations, small-group discussions and case studies of actual Firm experiences.

**Prerequisites:** Probable assignment to insurance audit work

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
Oct. 24 (tentative)	St. Charles

### Insurance — Intermediate Industry Training School

Presents problems encountered in audits in the insurance industry.

Topics include actual case studies taken from the Firm's experience discussed in small-group sessions.

**Prerequisites:** For experienced seniors and managers

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Oct. 5-6 (tentative)	St. Charles

### Manufacturing — Basic Industry Training School

Provides an orientation to manufacturing business and reporting functions with emphasis on their audit relevance. The manufacturing business functions are defined as product management, design and manufacturing engineering, production and material requirements planning, inventory control, purchasing, manufacturing processes and facilities, the shop floor and product distribution.

Firm experts in the manufacturing field make group presentations. The school also includes case problems and small-group sessions.

**Prerequisites:** For experienced staff accountants with substantive prior experience on manufacturing audits

**Advance Preparation:** Reading assignments of approximately 16 hours

**CPE Contact Hours:** 40

Dates	Location
Aug. 7-11	St. Charles
Aug. 28-Sept. 1	St. Charles
Sept. 11-15	St. Charles
Oct. 16-20	St. Charles
Oct. 30-Nov. 3	St. Charles

### Manufacturing — Advanced Industry Specialty Meeting

Covers complex aspects of manufacturing business and reporting functions, with emphasis on the Firm's planning and reporting systems developed for manufacturing companies. The seminar utilizes problem-solving case studies.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** Reading assignment of approximately 8 hours

**CPE Contact Hours:** 24

Dates	Location
June 7-9	St. Charles

## INDUSTRY COMPETENCE

### **Mergers and Acquisitions — Advanced Industry Specialty Meeting**

Presents technical problems pertaining to mergers, acquisitions and divestitures, including accounting and auditing problems, tax problems and investigatory matters.

Teaching methods include small-group discussions and lectures by Firm experts in the field of mergers and acquisitions.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

<b>Dates</b>	<b>Location</b>
To be determined	St. Charles

### **Petroleum and Gas — Advanced Industry Specialty Meeting**

Provides information on the Firm's current policies on certain accounting, reporting and tax problems related to the petroleum industry.

Teaching methods include small-group discussions led by specialists in the petroleum and gas field.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

<b>Dates</b>	<b>Location</b>
Nov. 2-3 (tentative)	St. Charles

### **Printing and Publishing — Basic Industry Training School**

Acquaints audit staffmembers to be assigned to work in the printing and publishing industry with basic economic and accounting problems of the industry.

Topics include organization and operations of the various segments making up the printing and publishing industry and accounting and auditing problems peculiar to that industry such as inventory valuation, advance payments and royalties.

Teaching methods include lectures by experts in the industry, case problems worked by the participants in small-group sessions and videotapes of industry operations.

**Prerequisites:** Probable assignment to audit work in this industry

**Advance Preparation:** None

**CPE Contact Hours:** 16

<b>Dates</b>	<b>Location</b>
Apr. 24-25	St. Charles
Sept. 7-8	St. Charles
To be determined	New York

### **Real Estate — Basic Industry Training School**

Provides audit staffmembers to be assigned to real estate industry audit work with a basic understanding of problems in this industry. Topics covered include problems relating to construction, financial, financial statement preparation and auditing techniques.

Teaching methods include case studies based on actual Firm experiences, small-group discussions and problem-solving exercises.

**Prerequisites:** Probable assignment to work in the real estate industry

# INDUSTRY COMPETENCE

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Oct. 23-24 (tentative)	St. Charles

## Regulated Industries — Basic Industry Training School

Provides audit staffmembers to be assigned to regulated industry audit work with a basic understanding of problems in this industry. Topics covered include many aspects of regulation and its effect on accounting and reporting policies of regulated companies, special utility accounting and auditing problems and similar matters.

Teaching methods include case studies and problem-solving exercises supported by small-group discussions. Audiotapes and videotapes are used where appropriate.

**Prerequisites:** Probable assignment to regulated industry audit work

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Aug. 31-Sept. 1 (tentative)	St. Charles
Sept. 25-26 (tentative)	New York
Sept. 11-12 (tentative)	Atlanta
Oct. 5-6 (tentative)	Houston

## Regulated Industries — Intermediate Industry Training School

Provides technical training necessary to enable the participants to function competently at the senior level on regulated industry audit engagements. Topics include job administration, specialized auditing techniques and more advanced aspects of utility regulation.

Teaching methods include small-group discussions led by instructors in the field.

**Prerequisites:** Senior status

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
May 22-26	St. Charles
Aug. 7-11	St. Charles

## Regulated Industries — Advanced Industry Specialty Meeting

Presents accounting, auditing, regulatory and certain administrative services and tax matters of current importance as well as important regulatory developments

Teaching methods include small-group discussions led by experts in the fields being discussed.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
Sept. 6-8 (tentative)	St. Charles

## INDUSTRY COMPETENCE

### Transportation — Advanced Industry Specialty Meeting

Presents accounting, auditing, tax and administrative services subjects applicable to the trucking industry.

Teaching methods include small-group discussions led by specialists in the field.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
To be determined	St. Charles

### Small Business — Basic Industry Training School

Provides audit staffmembers to be assigned to small business audit work with a basic understanding of the Firm's concept of service in the small business area.

Topics include types of financing available to small businesses, the preparation of unaudited financial statements and installation of simple accounting systems (general ledger, inventory control, order entry, etc.).

There is extensive use of case studies to illustrate the topics discussed and small-group discussions to solve simulated problems. Instructors are experts in the small business field.

When this school is held outside the United States, emphasis is placed on the problems encountered in the area where the meeting is held, but the course content is kept within the overall framework of the basic industry school.

**Prerequisites:** Probable assignment to small business audit work

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
June 12-17 (tentative)	Mexico City (for Spanish-speaking Latin America)
Oct. 23-27 (tentative)	London (for European offices other than Spain)
To be determined	Madrid (for offices in Spain)
June 19-23	St. Charles

### Small Business — Intermediate Industry Training School

Builds on the training of the basic school and on-the-job experience. Teaches advanced techniques and subjects needed in the small business area. Topics include the relationship between personal and corporate tax planning, cash flow statements and use of small computers and service bureaus in both accounting and auditing applications.

Teaching methods include extensive use of case studies and a financial-model exercise. The Firm's software is used to produce the model. Small-group discussions also are used extensively.

**Prerequisites:** For experienced seniors and managers

**Advance Preparation:** None

**CPE Contact Hours:** 32

Dates	Location
May 1-5	St. Charles
Oct. 16-20	St. Charles

### Small Business — Advanced Industry Specialty Meeting

Presents current developments in areas that affect the small business practice. Topics include recent tax laws and regulations and their effect on

## INDUSTRY COMPETENCE

individuals and closely held corporations, auditing and reporting problems of smaller companies, methods of obtaining financial aid for small companies and installation of small computers and related accounting controls.

Teaching methods stress small-group discussions led by experts in the fields being discussed.

Meetings held outside the United States stress problems encountered in the countries in which the meetings are held, i.e., problems peculiar to the European Common Market, the Andean Pact countries, etc.

**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
Oct. 30-31	St. Charles
Oct. 30-31	London
To be determined	Mexico City

### Basic Tax Concepts Course

Acquaints inexperienced staff accountants with basic tax concepts, introduces them to the tax implications of business problems and prepares them for attendance at the Small Business Basic U.S. Tax School.

This two-week course is for staff accountants who have recently entered the small business practice of the Firm.

Topics include accounting periods and methods, gross income and exclusions, sales and other dispositions of property, capital gains and losses, deductions, capital recovery, inventories, losses and bad debts and computing and paying the tax. Also included are topics introducing partnerships, corporations (including Subchapter S), fiduciary income taxation and estate and gift taxation.

The course is administered in each local office where staffmembers are preparing for Small Business Basic U.S. Tax School. Advisers in each office monitor the progress of participants through completion of the 14 units of study. A series of pretests and posttests measures comprehension of the course material. While evaluating a participant's work, advisers are available to answer questions and, where appropriate, make supplemental study assignments.

**Prerequisites:** Registration to attend Small Business Basic U.S. Tax School

**Advance Preparation:** None

**CPE Contact Hours:** 80

**Dates and Location:** Various. Conducted in local offices as needed, usually commencing at least three weeks before each session of the Small Business Basic U.S. Tax School.

### Small Business Basic U.S. Tax School

Provides a solid background in tax concepts applicable to individuals and businesses, teaches participants to recognize tax implications of client business problems and trains participants to apply tax skills and knowledge to business problems.

This school is attended by first- or second-year small business staff accountants without equivalent tax experience or training.

This five-and-one-half-day course covers in detail the fundamental tax principles of gross income and exclusions, allowable deductions and credits, sales and dispositions of property, inventories, accounting periods and methods and methods of computing the tax. It also includes an overview of the business and tax considerations of forms of doing business, taxation of corporations (including Subchapter S), partnerships and fiduciaries and the estate and gift transfer tax system. Usage of the Internal Revenue Code and Regulations is stressed.



## INDUSTRY COMPETENCE

Methods of instruction include problem solving, group discussion and short lectures.

The performance of each participant is monitored, and a special evaluation report is sent to the participant's office.

**Prerequisites:** Successful completion of the 80-hour Basic Tax Concepts Course in the local office (including submission of a report to the Tax Training Coordinator giving the test scores for all units of study and certifying successful completion of assigned work)

**Advance Preparation:** None

**CPE Contact Hours:** 44

Dates	Location
July 24-29	St. Charles
Oct. 16-21	St. Charles
Nov. 6-11	St. Charles

### Textiles — Intermediate Industry Training School

Presents the problems of the textile industry to auditors. Topics include organization and operations, accounting and reporting problems, auditing techniques and other matters of current interest.

Experienced faculty of one of the universities specializing in textile research and training conduct the school.

**Prerequisites:** Experience in audit work in the textile industry

**Advance Preparation:** None

**CPE Contact Hours:** 24

Dates	Location
To be determined	To be determined

### Water Transportation — Basic Industry Training School

Provides audit staffmembers to be assigned to water transportation audit work with a basic understanding of shipping operations. Topics include a review of organization and operations, special industry problems of regulation, subsidies, accounting and reporting matters and specialized auditing techniques to be used.

Teaching methods emphasize the use of case studies and small-group discussions led by specialists in the water transportation industry.

**Prerequisites:** Probable assignment to water transportation audit work

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
To be determined	St. Charles
To be determined	London

### Water Transportation — Advanced Industry Specialty Meeting

Acquaints participants with current developments in accounting, auditing, taxes and administrative services as they relate to water transportation.

Teaching methods emphasize use of small-group discussions and actual case studies. Firm experts in this specialty lead the discussions.

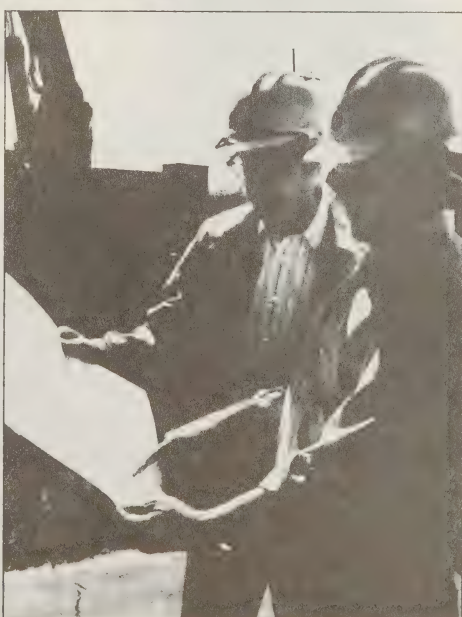
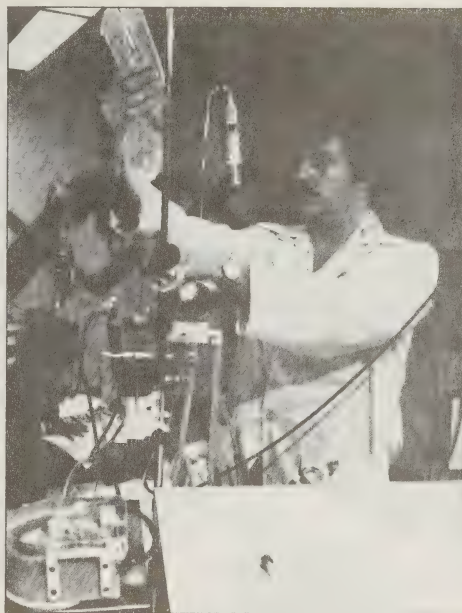
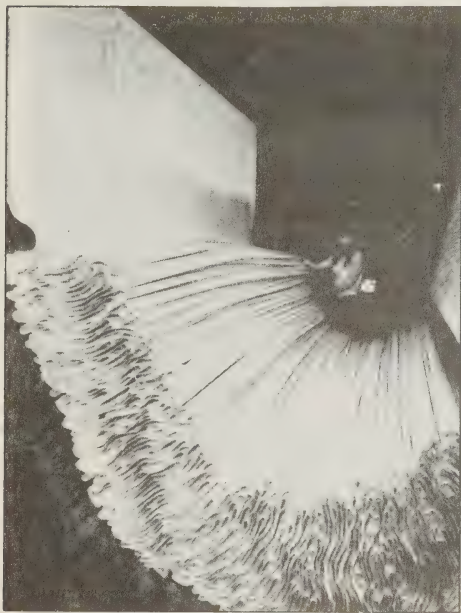
**Prerequisites:** For partners and managers designated by the industry head

**Advance Preparation:** None

**CPE Contact Hours:** 16

Dates	Location
To be determined	New York

# INDUSTRY COMPETENCE







# GENERAL

## New Staff Orientation Course

Designed for new professional personnel to facilitate their orientation process. The course introduces new employees to Firm policies and procedures, including a review of the opportunities available in a career with the Firm.

The course is structured into modules that may be used by the offices as needed. Topics include the organization and growth of the Firm, office administration and procedures, use of the Subject File, the approach to an audit engagement, preparation of working papers and a description of first-year duties with the Firm.

Teaching methods primarily include lectures by experienced personnel followed by question-and-answer periods. Some reading assignments are included. Videotape presentations are used where appropriate.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 24

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Conversations with Leonard Spacek

A series of conversations with Leonard Spacek videotaped shortly before his retirement. They are designed to familiarize participants with the history of the Firm, the development of accounting principles in the United States and the operating philosophies of the Firm.

Topics include The Early Years (Arthur Andersen), The Spacek Years, International Operations of the Firm and Development of Accounting Principles.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 4

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## Time-Sharing Training Meeting

Familiarizes professional personnel with the nature of time sharing and its application to our practice. Instruction is also given in the operation of the time-sharing terminal.

Topics include a review of several of the many time-sharing applications available to the offices, such as programs for analyzing tax shelter investments in real estate and leasing, maintaining equipment records and preparing depreciation schedules, determining present value and generating random numbers.

Teaching methods include videotape instruction in the operation of the terminal, reading material on the time-sharing applications available and a module in which participants design simple programs for specialized purposes.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

## GENERAL

### Effective Presentations

Provides seniors, managers and partners with the leadership techniques required for making effective presentations. The objective is to improve the ability of Firm personnel to make effective presentations to clients, nonclients and groups within the Firm (including training meetings).

Topics included in the meeting are the most effective way to use visual aids and some suggestions for effective presentations in terms of delivery, rehearsal, organization, physical facilities, etc.

Teaching methods include videotapes illustrating both good and bad techniques for using visual aids and making presentations. Reading assignments are made in the Firm's publication *Effective Presentations*. Ample time is provided for participants to practice making presentations before other members of the group.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### How to Conduct a Group Discussion

Provides seniors, managers and partners with the leadership techniques required for leading effective group discussions. The objective is to improve the ability of Firm personnel to function effectively in client discussion sessions as well as in training sessions within the Firm.

Topics included in the meeting are basic training concepts, fundamentals of group-discussion techniques and suggestions for being a more effective discussion leader.

Teaching methods include videotape lectures and examples of group discussions. Reading assignments are provided in the Firm's publication *Manual For Group Discussion Leaders*. Actual practice in leading discussions is an integral part of the meeting.

**Prerequisites:** Senior status

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### Speed Reading

Designed to increase the reading speed of all professional personnel.

Teaching methods include videotape lectures, reading assignments and practice sessions both in conjunction with the lectures and as additional assignments. Each of the modules in the series includes pretests and posttests.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** 8

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

### CPA Examination Course

Helps new employees prepare for the CPA examination. The course requires analysis of individual strengths and weaknesses and is designed to allow concentration on areas that the individual most needs to review.



# GENERAL

Topics include all of those normally covered by the uniform CPA examinations.

Teaching methods emphasize problem solving in all areas. Reading assignments and problem work areas geared to individual needs are based on six textbooks included in a kit given to each participant and eight other books from office libraries.

**Prerequisites:** None

**Advance Preparation:** None

**CPE Contact Hours:** Variable, depending on the portions of the CPA examination covered and the amount of time spent in the individual sections

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.

**Special Note:** In some states, minimum requirements have been established for individuals wishing to take the uniform CPA examination. Persons who have not received sufficient credits through their university studies may receive credits for attending the following Firm training schools:

Intermediate Accounting — U.S. (nine semester hours)

Firmwide Audit Staff Training School (four semester hours)

These evaluations were made independently under a program sponsored by the New York State Education Department and the American Council on Education.

## Firmwide New Managers Meeting

Explains in detail the Firm's philosophies of operations; prepares newly promoted managers to handle administrative problems encountered in their new assignments and gives assistance in some technical areas of each person's practice. This

meeting also includes centralized presentation of the Management Communications course described below.

Topics covered include arranging and staffing jobs, personnel problems, billing and collecting, programming and control of fieldwork, quality control, resolution of technical problems, interrelationship of various aspects of the Firm's practice and other topics of current interest.

Teaching methods include lectures by partners with Firmwide responsibilities, using closed-circuit television facilities in small discussion sections; instructor-led discussion groups; case studies and problem solving and audiotapes and videotapes.

**Prerequisites:** New manager status

**Advance Preparation:** None

**CPE Contact Hours:** 40

Dates	Location
July 10-14	St. Charles

## Local-Office New Managers Meeting

Supplements the Firmwide meeting for new managers by providing further instruction primarily in areas of concern to new managers and their particular offices.

Topics include personal administration of assignments, promotion, partner-manager relationships, working of the partnership, industry competence development and other local-office matters.

Teaching techniques include videotape presentations, lectures by partners with officewide responsibilities and problem-solving discussion sessions.

**Prerequisites:** New manager status and attendance at Firmwide New Managers Meeting

**Advance Preparation:** None

# GENERAL

**CPE Contact Hours:** 16

**Dates and Location:** This meeting is conducted in the local offices at dates closely following the Firmwide New Managers Meeting.

## Partner Development Program

Assists partner development in areas largely peripheral to day-to-day technical work but directly related to the business environment in which professional service is performed.

Topics include the contemporary economic climate, business-government relationships, organizational structure and change, operation of financial markets, management concepts and strategies, organizational behavior and business ethics. Instructors are recognized authorities in their fields selected from graduate schools of business in the United States and other countries. In each session, a variety of authorities present their views on contemporary issues in politics and labor relations problems. Formal presentations are supplemented by small-group discussions of case studies. There are extensive evening and weekend study assignments.

Participants are selected on a random-sample basis to provide for each session a group proportionately representative of the experience, functional specialization, academic background, geographic location and nationality of the entire partnership.

**Prerequisites:** Partner status

**Advance Preparation:** Extensive reading assignments

**CPE Contact Hours:** 75

Dates	Location
June 4-16	Miami
June 18-30	Tampa
July 9-21	Tampa
July 23-Aug. 4	Tampa
Aug. 6-18	Tampa

## Management Communications

Helps participants improve their communications skills by introducing the concepts of transactional analysis adapted to the business environment.

Teaching methods include a videotape presentation, discussions in small groups, extensive use of case studies and some lectures by the instructor. The program is designed for small-group sessions in local offices; it is also given as part of the New Managers Meeting.

**Prerequisites:** Manager status

**Advance Preparation:** None

**CPE Contact Hours:** 14

**Dates and Location:** Various. Conducted in operating offices according to need. Dates in any office are available from the local-office Director of Training.



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Subject File ST 1000, Item 15

APPENDIX C

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

Brisseau

and:

Martin & Robertson Limited





IN THE SUPREME COURT OF BRITISH COLUMBIA

(Before The Honourable Mr. Justice Bouck)

OCT 12 1978

No. C775324

OCT 17 1978  
Vancouver, B.C.

September 12, 1978

BETWEEN:

RAYMOND BRISSEAU )

PLAINTIFF )

AND:

MARTIN & ROBERTSON LIMITED )  
(in receivership), and )  
DELTA FOOD PROCESSORS LTD. )

DEFENDANTS )

COPY

D. Celler, Esq.

appearing on behalf of the Plaintiff

R.G. Fox, Esq.  
Ms. K. Kietz

appearing on behalf of the Defendants

BOUCK, J. (ORAL):

These proceedings cannot continue. It is apparent to me the nature of this case is far beyond the ability of counsel for the Plaintiff. It is not a difficult law suit. Unfortunately the Record will show the Plaintiff's representative has little comprehension of how the action should have been framed and the essential ingredients which need to be proved. Nothing will be gained by articulating these deficiencies.

Some might say it is not the place of a Judge to stop an action part way through merely because one party or another has imperfect counsel. I agree, except where the situation reaches a



stage that an obvious travesty of justice is taking place. In these instances, and this is one of them, a Judge just cannot sit back and let the matter take its course. Not only am I sworn to administer the law but I also have a duty to see that justice is done so far as the law allows. Members of the Law Society have the exclusive right to represent litigants in this court. It is a special privilege which works well in most instances. But if a member has either been inadequately trained or is indifferent in his preparation my first duty is to the citizen and not to the lawyer.

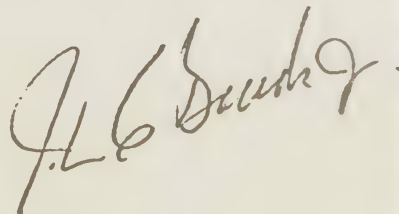
The Plaintiff is entitled to far better advice. He should consult more experienced counsel who knows how to conduct a civil case in this court.

In the circumstances I am going to declare a mistrial. The Defendants will recover the costs for the two days of the trial. I see no reason why the Plaintiff should pay these costs personally and so counsel for the Plaintiff must pay them himself.

Because of what has gone on here I am hopeful the Plaintiff will not be burdened with an account for services rendered by his adviser to date. No bill should be sent.

(Delivered Orally 12 September 1978)

(Revised in Writing 25 September 1978)







APPENDIX D

LEGISLATIVE HISTORY OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS  
Provisions of the Social Security Act Amendments

U.S. Department of Health, Education and Welfare



U.S. Department of  
Health, Education, and Welfare  
Health Care Financing Administration  
Health Standards and Quality Bureau

LEGISLATIVE HISTORY OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Provisions of the Social Security Act Amendments

Legislation through October 25, 1977



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From the Report of the

COMMITTEE ON FINANCE  
UNITED STATES SENATE

Report 92-1230, pp. 254-269

September 26, 1972

From:

Section B. Principal medicare-medicaid provisions

### 3. NEW PROVISIONS ADDED BY THE FINANCE COMMITTEE

#### Professional Standards Review

(Sec. 249F of the Bill)

According to recent estimates the costs of the medicare hospital insurance program will overrun the estimates made in 1967, by some \$240 billion over a 25-year period. The monthly premium costs for part B of medicare—doctors' bills—rose from a total of \$6 monthly per person on July 1, 1966, to \$11.60 per person on July 1, 1972. Medicaid costs are also rising at precipitous rates.

The rapidly increasing costs of these programs are attributable to two factors. One of these is an increase in the unit cost of services such as physicians' visits, surgical procedures, and hospital days. H.R. 1, as reported, contains a number of desirable provisions which the committee believes should help to moderate these unit costs.

The second factor which is responsible for the increase in the costs of the medicare and medicaid programs is an increase in the number of services provided to beneficiaries. The Committee on Finance has, for several years, focused its attention on methods of assuring proper utilization of these services. That utilization controls are particularly important was extensively revealed in hearings conducted by the subcommittee on medicare and medicaid. Witnesses testified that a significant proportion of the health services provided under medicare and medicaid are probably not medically necessary. In view of the per diem costs of hospital and nursing facility care, and the costs of medical and surgical procedures, the economic impact of this overutilization becomes extremely significant. Aside from the economic impact the committee is most concerned about the effect of overutilization on the health of the aged and the poor. Unnecessary hospitalization and unnecessary surgery are not consistent with proper health care.

## REVIEW OF PRESENT UTILIZATION CONTROLS

The committee has found that present utilization review requirements and activities are not adequate.

Under present law, utilization review by physician staff committees in hospitals and extended care facilities and claims review by medicare carriers and intermediaries are required. These processes have a number of inherent defects. Review activities are not coordinated between medicare and medicaid. Present processes do not provide for an integrated review of all covered institutional and noninstitutional services which a beneficiary may receive. The reviews are not based upon adequately and professionally developed norms of care. Additionally, there is insufficient professional participation in, and support of, claims review by carriers and intermediaries and consequently there is only limited acceptance of their review activities. With respect to the quality of care provided, only institutional services are subject to quality control under medicare, and then only indirectly through the application of conditions of participation.

Under present law, each hospital and extended care facility must have a utilization review plan covering services provided to medicare patients which provides for review, on a sample or other basis, of admissions, duration of stays, and the professional services furnished. The review is to include consideration as to the medical necessity of the services and the efficient use of health facilities and services. The utilization review is undertaken by either (1) a group, including at least two physicians, organized within the institution or (2) a group (including at least two physicians) organized by a local medical society or other group approved by the Secretary of Health, Education, and Welfare. The statute provides also that the utilization review group must be organized as in (2) above, if the institution is small or for such other good reasons as may be included in regulations. The utilization review group must also review long-stay cases and inform those concerned (including the attending physician) when it determines that hospitalization or extended care is no longer medically necessary.

The Finance Committee and the Ways and Means Committee stressed in 1965 that these requirements, if effectively carried out, would discourage improper and unnecessary utilization. The Finance Committee Report (S. Rept. 404, pt. I, 89th Cong., p. 47) stated:

The committee is particularly concerned that the utilization and review function is carried out in a manner which protects the patients while at the same time making certain that they remain in the hospital only so long as is necessary, and that every effort be made to move them from the hospital to other facilities which can provide less expensive, but equal, care to meet their current medical needs.

The detailed information which the committee has collected and developed as well as internal reports of the Social Security Administration indicate clearly that utilization review activities have, generally speaking, been of a token nature and ineffective as a curb to unnecessary use of institutional care and services. Utilization review in medicare can be characterized as more form than substance. The pres-

ent situation has been aptly described by a State medical society in these words:

Where hospital beds are in short supply, utilization review is fully effective. Where there is no pressure on the hospital beds, utilization review is less intense and often token.

The current statute places upon the intermediary as well as the State health agency responsibility for assuring that participating hospitals and extended-care facilities effectively perform utilization review.

Available data indicate that in many cases intermediaries have not been performing these functions satisfactorily despite the fact that the Secretary may not, under the law, make agreements with an intermediary who is unwilling, or unable, to assist providers of services with utilization review functions.

Apart from the problems experienced in connection with their determinations of "reasonable" charges, the performance of the carriers responsible for payment for physicians' services under medicare has also varied widely in terms of evaluating the medical necessity and appropriateness of such services. Moreover, ever since medicare began, physicians have expressed resentment that their medical determinations are challenged by insurance company personnel. The committee has concluded that the present system of assuring proper utilization of institutional and physicians' services is basically inadequate. The blame must be shared between failings in the statutory requirements and the willingness and capacity of those responsible for implementing what is required by present law.

There is no question, however, that the Government has a responsibility to establish mechanisms capable of assuring effective utilization review. Its responsibility is to the millions of persons dependent upon medicare and medicaid, to the taxpayers who bear the burden of billions of dollars in annual program costs, and to the health care system.

In light of the shortcomings outlined above, the committee believes that the critically important utilization review process must be restructured and made more effective through substantially increased professional participation.

The committee believes that the review process should be based upon the premise that only physicians are, in general, qualified to judge whether services ordered by other physicians are necessary. The committee is aware of increasing instances of criticism directed at the use of insurance company personnel and Government employees in reviewing the medical necessity of services.

The committee generally agrees with the principles of "peer review" enunciated in the report of the President's Health Manpower Commission, issued in November 1967. That report stated:

Peer review should be performed at the local level with professional societies acting as sponsors and supervisors.

Assurance must be provided that the evaluation groups perform their tasks in an impartial and effective manner.

Emphasis should be placed on assuring high quality of performance and on discovering and preventing unsatisfactory performance.

The more objective the quality evaluation procedures, the more effective the review bodies can be. To enable greater objectivity, there should be a substantial program of research to develop improved criteria for evaluation, data collection methods, and techniques of analysis.<sup>1</sup>

The committee has therefore included an amendment, as it did in H.R. 17550, which authorizes the establishment of independent professional standards review organizations (PSRO's) by means of which practicing physicians would assume responsibility for reviewing the appropriateness and quality of the services provided under medicare and medicaid.

#### THE COMMITTEE PROVISION

The committee has provided for a review mechanism through which practicing physicians can assume full responsibility for reviewing the utilization of services. The committee's review mechanism at the same time contains numerous safeguards intended to fully protect the public interest.

The committee provision would establish broadly based review organizations with responsibility for the review of both institutional and outpatient services, as opposed to the present fragmented review responsibilities.

The new review organizations would be large enough to take full advantage of rapidly evolving computer technology, and to minimize the inherent conflicts of interest which have been partially responsible for the failure of the smaller institutionally based review organizations. The review process would be made more sophisticated through the use of professionally developed regional norms of diagnosis and care as guidelines for review activities, as opposed to the present usage of arbitrarily determined checkpoints. The present review process, without such norms, becomes a long series of episodic case-by-case analyses on a subjective basis which fail to take into account in a systematic fashion the experience gained through past reviews or to sufficiently emphasize general findings about the pattern of care provided. The committee believes that the goals of the review process can be better achieved through the use of norms which reflect prior review experience.

The committee's bill provides specifically for the establishment of independent professional standards review organizations (PSRO's) formed by organizations representing substantial numbers of practicing physicians in local areas to assume responsibility for the review of service (but not payments) provided through the medicare and medicaid programs.

Recognizing the problem, on their own, a number of medical societies and other health care organizations have already sponsored similar types of mechanisms for purposes of undertaking unified and coordinated review of the total range of health care provided patients. Additional medical societies are proceeding to set up such organizations.

In reaffirming its conviction that the establishment of PSRO's should result in important improvements to the medicare and medicaid programs, the committee has taken particular note of the progress which has been made by a number of prototype review organizations

<sup>1</sup> Report of the Health Manpower Commission, November 1967, p. 48.



across the country. Experience by these organizations has provided the committee with convincing evidence that peer review can—and should—be implemented on an operational, rather than merely an experimental basis.

The committee expects that in developing the policies and regulations implementing the PSRO provision, the Secretary will seek the advice and counsel of physicians and administrators connected with existing successful review organizations.

However, in most parts of the country, new organizations would need to be developed.

The committee would stress that physicians—preferably through organizations sponsored by their local associations—should assume responsibility for the professional review activities. Medicine, as a profession, should accept the task of advising the individual physician where his pattern of practice indicates that he is overutilizing hospital or nursing home services, overtreating his patients, or performing unnecessary surgery.

It is preferable and appropriate that organizations of professionals undertake review of members of their profession rather than for Government to assume that role. The inquiry of the committee into medicare and medicaid indicates that Government is ill equipped to assure adequate utilization review. Indeed, in the committee's opinion, Government should not have to review medical determinations unless the medical profession evidences an unwillingness to properly assume the task.

But, the committee does not intend any abdication of public responsibility or accountability in recommending the professional standards review organizations approach. While persuaded that comprehensive review through a unified mechanism is necessary and that it should be done through usage, wherever possible and wherever feasible, of medical organizations, the committee would not preclude other arrangements being made by the Secretary where medical organizations are unwilling or unable to assume the required work or where such organizations function not as an effective professional effort to assure proper utilization and quality of care but rather as a token buffer designed to create an illusion of professional concern.

In a number of areas of the country, carriers and intermediaries—even though their activity is limited to retrospective review—are doing a reasonably effective job of controlling unnecessary utilization of health care services. Such efforts should not be terminated in any area until such time as a PSRO has satisfactorily demonstrated the willingness, operational capacity, and performance to effectively supplant and improve upon existing review work. Even where the PSRO becomes the paramount review organization, the existing review, if it is efficient and effective, should not be dismantled, if the PSRO can benefit by utilizing its experience and services.

#### ESTABLISHMENT OF PSRO'S

The amendment requires the Secretary, following consultation with national, State and local, public and private medical care organizations, and medical societies, to tentatively designate PSRO areas throughout the country by January 1, 1974. In smaller or more sparsely populated States, the designations would probably be on a

statewide basis. Each area, defined in geographic or medical service area terms, would generally include a minimum of 300 practicing physicians—in most cases substantially more than that number. Because of the minimum number of physicians required--intended to assure broad, diverse, and objective representation--it is expected that there will be many multicounty PSRO areas.

Tentative area designations could be modified if, as the system was placed into operation, changes seemed desirable. Area designations would also take into consideration the need to assure a reasonably coordinated administrative arrangement among PSRO's and the various medicare and medicaid administrative mechanisms in a State or area. The Secretary would provide prototype plans of organization and operation to prospective PSRO's in each area. The prototypes would be developed in consultation with proposed PSRO's and with various organizations presently operating comprehensive review mechanisms as well as national, State and local, private and public, health organizations.

It should be emphasized that in recommending operational, rather than experimental authority, it is recognized that the successful development of professional review organizations can encompass a variety of prototypes and that changes in technology can be expected to result in continued modifications in procedures, and that much remains to be done in the area of the development and refinement of professional norms. It is believed, though, that the proposal can be implemented within an overall framework of innovation and flexibility. The committee believes, further, that only a full implementation effort will provide the impetus needed to establish effective and equitable comprehensive professional review throughout the Nation.

Priority in designation as a PSRO would be given to organizations established at local levels representing substantial numbers of practicing physicians who are willing and believed capable of progressively assuming responsibility for overall continuing review of institutional and outpatient care and services. Local sponsorship and operation should help engender confidence in the familiarity of the review group with norms of medical practice in the area as well as in their knowledge of available health care resources and facilities. Furthermore, to the extent that review is employed today, it is usually at the local level. To be approved, a PSRO applicant must provide for the broadest possible involvement, as reviewers on a rotating basis, of physicians engaged in all types of practice in an area such as solo, group, hospital, medical school, and so forth.

Participation in a PSRO would be voluntary and open to every physician in the area. Existing organizations of physicians should be encouraged to take the lead in urging all their members to participate and no physician could be barred from participation because he is or is not a member of any organized medical group or be required to join any such group or pay dues or their equivalent for the privilege of becoming a member or officer of any PSRO nor should there be any discrimination in assignments to perform PSRO duties based on membership or nonmembership in any such organized group of physicians.

Physician organizations or groupings would be completely free to undertake or to decline assumption of the responsibilities of organizing a PSRO. If they decline, the Secretary would be empowered to seek alternative applicants from among other medical organizations. State

and local health departments, medical schools, and failing all else, carriers and intermediaries or other health insurers. In no case, however, could any organization be designated as a PSRO which did not have professional medical competence. And, in no case could any final adverse determinations by a PSRO with respect to the conduct or provision of care by a physician be made by anyone except another qualified physician.

PSRO physicians engaged in the review of the medical necessity for hospital care and justification of need for continued hospital care must be active hospital staff members. The purpose here is to assure that only doctors knowledgeable in the provision and practice of hospital care will review such care. To the extent feasible, it is intended that a physician not be involved in decisionmaking in the review of care for the PSRO which was provided in a hospital where he has active staff privileges (except to the extent of his involvement with "in-house" review acceptable to the PSRO).

The committee expects that the Secretary will provide every possible assistance to the PSRO's. The Department would be required to develop prototype review plans and would be expected to provide assistance and encouragement in the development of acceptable review plans. Proposals submitted to the Secretary by prospective PSRO's would be made available, on request, to appropriate concerned organizations and individuals who, in turn, would be free to submit to the Secretary such comments on the proposal as might assist his evaluation of the prospective PSRO. The Department would also be required to develop the capacity to evaluate the potential of review plans proposed by organizations throughout the country, and with the assistance and advice of the National Professional Standards Review Council, to monitor on a regular and continuing basis the performance of the organizations selected through the use of statistical comparisons and other means of evaluation.

The committee recognizes that proper administration of this provision will involve substantial administrative effort and expense. However, over the long run, the PSRO provision, properly implemented, should result in substantial reductions in program costs and improved quality of care. The Secretary is expected to take such administrative steps and provide all necessary assistance and cooperation to assure that no PSRO fails because it does not have access to the means or information required to perform adequately.

#### CONDITIONAL STATUS OF PSRO'S

A qualified PSRO applicant would be approved on a conditional basis for a period not to exceed 2 years during which it would develop and expand its review activities and capacity. Contracts may be terminated upon 90 days' notice by either the PSRO or the Secretary. During the conditional period, existing medicare and medicaid review operations would also continue so as to provide backup and standby capacity in the event a PSRO encounters difficulties or is terminated. At the end of the conditional period, where the PSRO has satisfactorily demonstrated its effectiveness in review, the Secretary would have authority and would be expected to waive any other professional review requirements, in whole or part, imposed under the law and regulations.

Medicare and medicaid claims-paying agencies would be expected to abide by final decisions of the PSRO during this trial period. Placing reliance on the PSRO decision during the trial period is necessary to permit an accurate appraisal of the effectiveness with which the conditionally approved PSRO's could be expected to exercise the review function in the absence of concurrent review by others.

As noted, once an organization is accepted as a PSRO the Secretary would regularly evaluate its performance using statistical comparison and other means of evaluation including the findings and recommendations of the statewide and national professional standards review councils established under the amendment. Where performance of an organization was determined to be unsatisfactory, and timely efforts to bring about its improvement failed, the Secretary could terminate its participation after appropriate notice and opportunity for administrative hearing. A finding, for example, that one PSRO was accepting without question substantial numbers of requests which other apparently well-run PSRO's were generally investigating and denying would be expected to result in termination of the agreement with the former PSRO unless the situation is justified by factors related to medical necessity or unless reasonable action to correct the problem is undertaken.

The committee anticipates that PSRO's will function in effective and dedicated fashion under the guidance of concerned physicians. In instances where there might be only nominal or halfhearted performance, it would be expected that necessary remedial action would be promptly taken through the initiative of the medical profession and, failing that, by the Secretary.

If the Secretary found it necessary to replace a review organization, as a first step he would consult with other review organizations in the State involved as well as with the State medical society to determine whether another local organization or an organization sponsored by the State society itself was willing and capable of undertaking review responsibility in the geographic area concerned. In the event that such was not the case, he could then contract with State or local health departments or employ other suitable professional means of assuring the necessary review activity in the area.

#### RESPONSIBILITIES OF A PSRO

A PSRO would have the responsibility of determining—for purposes of eligibility for medicare and medicaid reimbursement—whether care and services provided were: first, medically necessary, and second, provided in accordance with professional standards. Additionally, the PSRO where medically appropriate, would encourage the attending physician to utilize less costly alternative sites and modes of treatment. The PSRO would not be involved with questions concerning the reasonableness of charges or costs or methods of payment nor would it be concerned with internal questions relating to matters of managerial efficiency in hospitals or nursing homes except to the extent that such questions substantially affect patterns of utilization. The PSRO's responsibilities are confined to evaluating the appropriateness of medical determinations so that medicare and medicaid payments will be made



only for medically necessary services which are provided in accordance with professional standards of care.

The local PSRO would be primarily responsible for review of all medicare and medicaid services rendered or ordered by physicians in its area. The purpose of the provision is to establish a unified review mechanism for all health care services under the aegis of the principal element in the health care equation, the physician. Christian Science practice, however, would not be encompassed in the overall review and review arrangements required of a PSRO.

In carrying out its responsibilities the PSRO would be required to regularly review provider and practitioner profiles of care and service (that is, the patterns of services delivered to medicare and medicaid beneficiaries by individual health care practitioners and institutions) and other data to evaluate the necessity, quality, and appropriateness of services for which payment may be made under the medicare and medicaid programs.

The PSRO would be expected to analyze the pattern of services rendered or ordered by individual practitioners and providers and to concentrate its attention on situations in which unnecessary, sub-standard, or inappropriate services seem most likely to exist or occur. Emphasis in review efforts would be related to the results expected to be achieved by these efforts so that the net advantage from the review time would be maximized.

A PSRO would have authority to approve the medical necessity of all elective hospital admissions in advance—solely for the purpose of determining whether medicare or medicaid will pay for the care. The PSRO would also be required to acknowledge and accept, in whole or in part, an individual hospital's own review of admissions and need for continued care, on a hospital-by-hospital basis, where it has determined that a hospital's "in-house" review is effective. It is expected that where such "in-house" review is effective this authority would be exercised by the PSRO. Similarly, a PSRO would be required to acknowledge and accept for its purposes, review activities of other medical facilities and organizations, including those internal review activities of comprehensive prepaid group practice programs such as the Kaiser Health plans and the Health Insurance Plan (H.I.P.) in New York to the extent such review activities are effective. In issuing regulations to assure orderly operation of this procedure of evaluating in-house review the Secretary would be expected to incorporate reasonable appeals procedures to avoid any non-professional prejudice or bias by the PSRO in acceptance or rejection of in-house review. In order to assure the broadest possible participation in PSRO activities by physicians in an area, internal review activities will not be accepted by a PSRO where the physicians of the institution or medical organization concerned do not participate in the overall review activities conducted by the PSRO. Thus an institution or medical organization which is carrying out effective review would bring its desirable expertise to the benefit of the entire community, to the extent that the PSRO finds those review activities and experience effectively assist in fulfilling its overall responsibilities.

The purpose here is to build upon and encourage improvement in existing systems of review to the extent those systems are capable of



assisting in fulfilling the overall responsibilities of a PSRO. Thus effective review mechanisms would be recognized and encouraged by the PSRO. Of course, PSRO's would use this authority carefully. In discriminate acceptance of hospital and other review activities would undoubtedly be reflected in an overall poor performance rating when a PSRO was measured against other PSRO's operating in careful fashion. A poor rating could, in turn, lead to termination and replacement of the negligent PSRO. Where provision of services was disapproved by the PSRO, payment for the services could not be made under medicare or medicaid (unless the disapproval was reversed in the course of reconsideration, hearing, or court review). In case of advance review the institution and the patient alike would know in advance whether medicare will pay for the health care services being contemplated, although denial of certification for admission would not bar admission of any patient to an institution if his physician desires to admit him and if the institution accepts his admission. In this regard, medicare parallels private health insurance where a private policy issuer might determine that the care proposed or rendered was not reimbursable under the terms of the policy.

Where advance approval by the review organizations for institutional admission was required and provision of the services was approved by the PSRO, or where and to the extent the PSRO accepted "in-house" review, such approval would provide the basis for a presumption of medical necessity for purposes of medicare and medicaid benefit payments. However, advance approval of institutional admission would not preclude a retroactive finding that ancillary services (not specifically approved in advance) provided during the covered stay were excessive.

The PSRO, where it has not accepted in-house review in a given hospital as adequate, would be responsible for reviewing attending physicians' certifications of need for continued hospital care beyond professionally determined regional norms directly related to patients' age and diagnoses, using criteria such as the types of data developed by the Commission on Professional and Hospital Activities, which is sponsored by the American Hospital Association, the American College of Physicians, and the American College of Surgeons. It is expected that such certification would generally be required not later than the point where 50 percent of patients with similar diagnoses and in the same age groups have usually been discharged. However, it is recognized that there are situations in which such stays for certain diagnoses may be quite short in duration. In such situations the PSRO might decide against requiring certification at or before the expiration of the period of usual lengths of stay on the grounds that the certification would be unproductive; for example, when the usual duration of stay is two days or less. Certification on the first day of stay might yield no significant advantage in the review process. This professionally determined time of certification of need for continued care is a logical checkpoint for the attending physician and is not to be construed as a barrier to further necessary hospital care. Neither should the use of norms as checkpoints, nor any other activity of the PSRO, be used to stifle innovative medical practice or procedures. The intent is not conformism in medical practice—the objective is reasonableness.

PSRO disapproval of the medical necessity for continued hospital care beyond the norm for that diagnosis will not mean that the physician must discharge his patient. The physician's authority to decide the date of discharge as well as whether his patient should be admitted in the first place cannot be and are not taken from him by the PSRO. The review responsibility of the PSRO is to determine whether the care should be paid for by medicare and medicaid. By making this determination in advance, the patient, the institution, and the physician will all be forewarned of the desirability of making alternative plans for providing care or financing the care being contemplated.

Similarly, as feasible, out-of-institution norms would be developed and utilized based upon patterns of actual and proper practice by physicians. Such norms are available in many areas to an extent today. It is recognized that continuing efforts will need to be made to improve the scope and comprehensiveness of such norms.

#### OPERATION OF A PSRO

It is expected that a PSRO would operate in a manner which conserves and maximizes the productivity of physician review time without unduly imposing on his principal function, the provision of health care services to his own patients. One way to conserve physician review time is through automated screening of claims by computers and other devices used in the claims process carried out under review specifications and parameters set forth by the PSRO. Another way to conserve physician time would be through the use of other qualified personnel such as registered nurses who could, under the direction and control of PSRO physicians, aid in assuring effective and timely review. And as already pointed out, a third is by utilizing the services of active and conscientious utilization review committees in hospitals and in local medical organizations.

It is expected that the Secretary will develop necessary procedures for coordination between medicaid agencies, medicare carriers and intermediaries and the PSRO's. To the extent that profiles are presently maintained by State agencies, carriers and intermediaries, these would be made available to the PSRO's. Following completion of the conditional period of PSRO designation the Secretary would be authorized to waive any control or review activity required by law which he determines to be unnecessary in view of the review and control activities assumed by and effectively performed by a PSRO. Thus, the PSRO activity would be fitted into the medicare-medicaid process with an eye to efficiency in the system. When a federally financed system of operation of a PSRO is developed, whether directly by the PSRO or by contract, that system would be made available without charge for use by other PSRO's.

Existing medical organizations, such as the San Joaquin and Sacramento Medical Foundations in California, and others have developed patient and practitioner profile forms and approval certification and other review methods which may provide the bases for development of uniform data gathering and review procedures capable of being employed in many areas of the Nation. The committee expects that the Secretary, in conjunction with various medical and other

organizations, would assist the local professional standards review organizations through providing them with model operational guides, forms and methodology descriptions. To the greatest extent possible, standardized forms and procedures should be utilized by the local review organizations. Of course, this approach would not preclude acceptable modification and adaptation to meet local circumstances, but basic formats should be established for national usage and basic comparable data for inter-PSRO comparisons should be developed.

It is expected that where economical and efficient computer and other resources already exist in carriers and intermediaries they would be utilized to the extent feasible and that operations would be consolidated and coordinated wherever possible. In a similar fashion, the PSRO could use the established communication channels of State and local medical associations to keep practicing physicians fully informed of review activities.

The committee would stress that the approach recommended does not envisage Blue Cross or Blue Shield or other insurance organizations or hospital or medical association review committees, assuming the review responsibilities for the professional standards review organizations. Where Blue Cross or Blue Shield or other insurers, or agencies have existing computer capacity capable of producing the necessary patient, practitioner, and provider profiles in accordance with the parameters and other requirements of the PSRO, on an ongoing expeditious and economical basis, it would certainly be appropriate to employ that capacity as a basic tool for the professional standards review organizations; but that mechanism would be employed essentially to feed computer printouts to the review organizations which would be responsible for their evaluation. Where it would facilitate administration, the Secretary could designate a specific carrier or intermediary as "lead" carrier or intermediary for purposes of coordination with PSRO's in an area. The responsibility for handling requests for such prior approval of hospital admissions, elective procedures and services as might be required, as well as the administrative mechanism for processing such requests, would lie with the PSRO's. A "lead" carrier or intermediary would not interfere with nor interrupt direct contact between the Secretary and the PSRO's.

It is expected that PSRO's would make specific arrangements with groups representing substantial numbers of dentists for necessary review of dental services.

PSRO's would be authorized and expected to retain and consult with other types of health care practitioners such as podiatrists to assist in reviewing services which their fellow practitioners provide. However, physicians should not be precluded—in fact they should be encouraged—to participate in the review of services ordered by physicians but rendered by other health care practitioners. For example, physical therapists may be utilized in the review of physical therapy services, but physicians should determine whether the services should have been ordered. The PSRO would be responsible for seeing to it that any arrangement it made was carried out effectively.

Expenses reasonably and necessarily incurred by the PSRO's, statewide councils and advisory groups and the national council would be borne by the Federal Government. Since overutilization of health serv-

ices is not restricted to medicare and medicaid but affects private health insurance as well, the PSRO would be at liberty to provide its review services to private health insurers provided the additional review efforts do not lower the quality of the medicare-medicad reviews. In such a case, there would be a proportionate allocation of costs between medicare, medicaid, and others served by the review organization.

Employees of the PSRO would be selected by the organization and would not be Government employees. Where the Federal Government has paid for or supplied necessary equipment to the review organizations, title to such property would remain with the Government.

A PSRO agreement would include provision for orderly transfer of medicare and medicaid records, data and other materials developed during the trial period to the Secretary or such successor organization as he might designate in the event of termination of the initial agreement. Such transfer would involve only those records pertinent to medicare and medicaid patients and would be made solely for purposes of permitting orderly continuity of review activities by a successor PSRO.

#### SANCTIONS AND LIABILITY

It is anticipated that in those areas where PSRO's function effectively, the need for sanctions will be minimal. However, sanctions are provided under the amendment to deter improper activity.

On the basis of its investigations of situations of possible abuse identified in its own review or referred to it by the Secretary or his administrative agents, the PSRO would (after reasonable notice and opportunity for discussion with the practitioner or provider involved) recommend to the Secretary appropriate action against persons responsible for gross or continued overuse of services, for use of services in an unnecessarily costly manner, or for inadequate quality of services and would act to the extent of its authority and influence to correct improper activities.

In determining responsibility for overuse of services, uneconomical use of services or the provision of substandard services, the PSRO would take into account actual ability of the provider or physician to control the activities in question.

Where a review organization finds that voluntary and educational efforts fail to correct or remedy an improper situation with respect to a practitioner or provider, it would transmit its recommendations concerning sanctions through the statewide council to the Secretary of HEW. Protective appeals procedures are afforded to those against whom sanctions have been recommended. Where he receives such a recommendation, the Secretary could terminate or suspend medicare and medicaid payment for the services of the practitioner or provider involved, or assess an amount reasonably related to the excessive costs to the programs deriving from the acts or conduct involved—but not to exceed \$5,000 against persons or institutions found to be at fault. In such cases the practitioner or provider would be granted a hearing by the Secretary on request and could seek judicial review of the final determination of the Secretary.

The amendment provides protection from civil liability for those engaged in required review activities, or who provide information to



PSRO's in good faith, for actions taken in the proper performance of these duties. Activities taken with malice toward a practitioner or institution, or group of practitioners would not be considered action taken in the proper performance of these duties. In addition, physicians and providers would be exempt from civil liability arising from adherence to the recommendations of the review organization (where it was a physician-sponsored and operated PSRO) provided they exercise due care in the performance of their functions. The intention of this provision in the amendment is to remove any inhibition to proper exercise of PSRO functions, or the following by practitioners and providers, of standards and norms recommended by the review organization. Thus, a physician following practices which fall within the scope of those recommended by a PSRO would not be liable, in the absence of negligence in other respects for having done so.

Failure to order or provide care in accordance with the norms employed by the PSRO is not intended to create a legal presumption of liability.

The exemptions from civil liability would apply to a range of patterns which fall within the scope of the norm, to the extent that such a range is considered acceptable by the PSRO in accordance with regulations of the Secretary. For example, the usual length of stay for a given illness might be 6 days, but an individual practitioner might only hospitalize his patient for 4 days. In this case the doctor might be motivated to keep his patient in the hospital for an extra 2 days to assure himself of exemption from liability. However, as described above, the PSRO could approve a range of norms, each of which was considered medically acceptable by the PSRO, which could encompass a hospital stay of 4 days as being sufficient. It is not intended, however, that this protection preclude the liability of any person who is negligent in performing PSRO functions or who misapplies or causes to be misapplied the professional standards promulgated by a review organization.

A physician or provider should not be relieved of responsibility where standards or norms are followed in an inappropriate manner or where an incorrect recommendation by the PSRO is induced through provision of erroneous or incomplete information.

Objective and impartial review must be provided by a PSRO if it is to be effective and respected. Malice, vendettas, or other arbitrary and discriminatory practices or policies are by definition "nonprofessional," and in the unlikely event of such occurrences the Secretary is expected to promptly act to terminate the contract with the organization involved unless it immediately undertakes voluntary corrective measures.

#### HEARINGS, REVIEW AND WAIVER OF LIABILITY

A medicare beneficiary, medicaid recipient, provider of services or health care practitioner who was dissatisfied with a determination by a PSRO under this provision would be entitled to reconsideration of the determination by the PSRO; where the matter in controversy is \$100 or more the reconsideration would be subject to review, on appeal, by a State Professional Standards Review Council or by the Secretary. Where the amount in question exceeded \$1,000, the Secretary's



final decision would be subject to judicial review. A review or appeal proceeding under the PSRO provision would be in lieu of any other review under the Social Security Act with respect to the same issue.

Generally, where the PSRO disapproved items or services furnished under medicare and medicaid, payment for such items and services could not be made by these programs. However, provision is made for the Secretary to make payment for disapproved items and services where he determined that a claimant was without fault with respect to the provision of items or services. This provision is needed to prevent making individuals liable for payment for the disapproved services when they accepted the services under the impression they would be paid for by medicare or medicaid.

#### STATE AND NATIONAL ORGANIZATIONS

Under the amendment statewide professional standards review councils (and an advisory group to each council) would be established in States which have three or more PSRO's. A council would consist of one representative from each PSRO, two physicians designated by the State medical society, two physicians designated by the State hospital association, and four persons, knowledgeable in health care, selected by the Secretary as public representatives. Two of the public representatives would be selected from nominees recommended by the Governor of the State.

A statewide council would serve to coordinate the activities of the PSRO's within the State, disseminate information and other data to them and review the overall effectiveness of each of the PSRO's operations. The council would be advised and assisted in its activities by an advisory group consisting of representatives of health care practitioners (other than physicians) and health care institutions.

Completing the structure, a national professional standards review council would be established. That council would consist of 11 physicians of recognized standing and distinction in the review of medical practice who would be appointed by the Secretary. A majority of the members would be selected from nominees of national organizations representing practicing physicians. The council would also include physicians nominated by consumer groups and other health care interests such as hospitals. The national council would arrange for the collection and distribution of data and other information useful to the statewide and local professional standards review organizations; particularly, norms of care employed in various geographic or medical service areas and various methods of utilizing and applying those norms. The national council would also report regularly to the Secretary and to the Congress on the overall and area-by-area effectiveness of the review program and offer such recommendations as it might have for improvement of the program.

#### ROLE OF THE INSPECTOR GENERAL

Properly established and properly implemented throughout the Nation, professional standards review mechanisms can help relieve the tremendous strain which soaring health costs are placing upon the entire population. Emphasis, wherever possible, upon the provision of

necessary care on an outpatient rather than inpatient basis could operate to reduce need for new construction of costly hospital facilities. Hospital bed need would be further reduced by reductions in lengths of hospital stay and avoidance of admission for unnecessary or avoidable hospitalization.

To be effective, the PSRO provisions will require full and forthright implementation. Equivocation, hesitance, and half-hearted compliance will negate the intended results from delegation, with appropriate public interest safeguards, of primary responsibility for professional review to nongovernmental physicians. For these reasons, the committee expects that the Inspector General for Health Administration (whose office is established under another amendment) will give special attention to monitoring and observing the establishment and operation of the PSRO's to assure conformance and compliance with congressional intent.

On September 27, 1972 the Senate began consideration of the proposed Social Security Amendments. Following are the remarks of Senator Wallace F. Bennett regarding the PSRO section (from the Congressional Record, Vol. 118, No. 152, pp. S16111-16112).

Mr. BENNETT. Mr. President, as the ranking minority member on the Senate's committee, I should like to join the chairman in presenting opening statements with respect to this monumental and historic piece of legislation. Just within the last few minutes, a copy of the bill has been laid on the desk of each Senator. It disappoints me. It is only 989 pages long. I thought it might actually have reached and crossed the mark of 1,000 pages. By all odds, it is the longest bill that has ever been considered by either House of Congress. Its length is a factor of the extent to which it attempts to attack and solve the many, many problems that have grown up in the social security and welfare fields over the years.

It has been a number of years since these programs were instituted, and as time has passed and conditions have changed, we have either left the problems there to grow or we have attempted to solve them on a patchwork basis. This time the committee, working since last January, has undertaken a comprehensive review of both these areas. This bill represents the committee's recommendations to the Senate.

Mr. President, the chairman has just completed his comprehensive statement, in which he has reviewed and outlined the major provisions in H.R. 1 and has indicated to the Senate how these provisions relate in a manner touching, in one way or another, on almost every critical problem in the areas of social security, medicare, medicaid, and welfare.

Senator Long has done a superb job of summarizing the bill. I should like, therefore, at this point to reemphasize the importance of a few of the key committee decisions in which I have been most closely involved on a personal basis.

The chairman has mentioned two of these, in the matter of the review of the quality and necessity for health care and an attempt to work out a provision which would encourage work, rather than welfare, for the family heads in families with dependent children. I am going to talk a little more in detail about these two features.

The bill deals extensively with medicare, medicaid, and welfare. In each of these areas, there have been key problems which need to be solved. In the welfare area, the principal problem involves the question of whether we should merely guarantee a welfare family, headed by a person who is capable of employment, a minimal income, or whether we should, instead, guarantee employable adults a job opportunity. I will discuss these welfare issues later in my statement.

In medicare and medicaid, the critical problem the committee has had to solve relates to the urgent need for effective utilization of medical facilities and the need for a peer review of the way these facilities are used.

The committee, after extensive hearings and deliberations, going all the way back to 1970, has again approved the professional standards review organization amendment, which I offered and which would establish a responsible and publicly accountable professional structure for carrying out peer review at local levels throughout the country.

Senators will recall that the PSRO amendment was strongly endorsed by the Senate in a rollcall vote during the debate on the Social Security amendments of 1970.

Let me take a few moments to again set the whole issue of utilization and peer review in context for the Senate. Until recently in our history, the Federal Government was not involved to any substantial extent as a third-party payer of medical and hospital bills.

With the advent of medicare and medicaid in 1965, the Federal Government almost overnight became the largest health insurer or third-party payer in the United States. The Government was now paying hospital and medical bills for millions of aged and poor citizens.

Medicare and medicaid have been good programs, which have enabled millions of citizens to meet their health needs. However, as most Senators are aware, the cost of the medicare and medicaid programs have skyrocketed far beyond the early estimates. In this fiscal year, alone, medicare and medicaid will cost the Federal and State Governments some \$19 billion. Projected costs of the medicare hospital insurance program will exceed estimates made in 1967 by some \$240 billion over a 25-year period. The total monthly premium cost for part B of medicare—doctors' bills—rose from \$6 monthly per person in July of 1966 to \$11.60 per person in July of 1972. Medicaid costs are also rising at precipitous rates.

Obviously, the costs of these programs represented a problem which must be dealt with. In addition, hearings revealed that a significant proportion of the health services provided under medicare and medicaid were not medically necessary and that some of the necessary services provided would not meet proper quality standards.

These were the problems—cost and quality—which the Finance Committee had to face in discussing medicare and medicaid. Part of the answer was relatively easy. The Ways and Means Committee and the Finance Committee both developed a number of provisions to control allowable unit charges for physicians' services and hospital per diem costs. These controls will not halt cost increases, but should moderate them substantially.

However, controlling the unit cost of services under medicare and medicaid solved only part of the problem. The committee still had to deal with the very difficult questions of whether the services were actually necessary and met proper quality standards. This is where utilization and peer review enters the picture. As I said, it is relatively easy to control the unit price of services, but without effective professional controls on utilization

the costs of the programs will continue to soar.

An effective comprehensive professional review mechanism can materially ease problems of utilization and quality control. This is the area where a bridge was needed between medicine and Government. It was all too clear to those of us on the Finance Committee that an army of Government and insurance company employees checking on each medical service was not the answer. Past experience and commonsense indicated clearly that clerical personnel could not and should not make decisions as to the quality and necessity of medical services.

The bridge we needed between Government and medicine was a structure through which practicing physicians could, in an organized and publicly accountable fashion, professionally evaluate the quality and necessity of medical services in an area.

In 1970 I introduced an amendment to establish professional service review organizations throughout the United States. Under this provision, professional standards review organizations—PSRO's—would be established throughout the United States and would have the responsibility of reviewing—on a comprehensive and ongoing basis—whether the services provided under medicare and medicaid were necessary and met accepted professional standards. The Secretary of Health, Education, and Welfare would, after consultation with national and local health professions and agencies, designate appropriate areas through the Nation for which professional standards review organizations would be established. Areas may cover an entire State or parts of a State, but generally a minimum of 300 practicing doctors would be included within one area. As a practical matter, the average PSRO would average 700 or 800 physicians. This size should be sufficient to assure objective review and yet be essentially local in nature and timely in response.

Organizations representing substantial numbers of physicians in area, such as medical foundations and societies, would be invited to sponsor review organizations. It should be clearly understood—and this has been one of the debates over the past 2 years, one that has been most difficult to explain—that a medical society, per se, could not qualify as a PSRO because of the requirement that membership in the PSRO be open to all licensed doctors of medicine and osteopathy in an area without any society membership or dues requirement whatsoever. Where the Secretary finds that such organizations are not willing or cannot reasonably be expected to develop capabilities to carry out professional standards review organization functions in an effective, economical, timely and objective manner, he would enter into agreements with such other agencies or organizations with professional medical competence as he finds are willing and capable of carrying out such functions.

In other words, the job would be done one way or the other but it is the intention of the amendment to give a first



priority, a first opportunity to qualified organizations already existing who would be capable of sponsoring a PSRO to include all the practicing physicians in the given area.

The initial agreement would be made on a conditional basis, not to exceed 2 years, with the PSRO operating concurrently with the present review system. During the transitional period, medicare carriers and intermediaries are expected to abide by the decision of the professional standards review organization where the professional standards review organization has acted. This reliance will permit a more complete appraisal of the effectiveness of the conditionally approved professional standards review organization. Where performance of an organization is unsatisfactory, and the Secretary's efforts to bring about prompt necessary improvement fail, he could terminate its participation.

Provider, physician, and patient profiles and other relevant data would be collected and reviewed on an ongoing basis to identify persons and institutions which provide services requiring more extensive review. Regional norms of care and treatment would be used in the review process as routine checkpoints in evaluating when excessive services may have been provided. The norms would be particularly useful in determining the point at which physician certification of need for continued institutional care would be made and reviewed. Initial priority in assembling and using data and profiles would be assigned to those areas most productive in pinpointing problems—such as hospitalization—so as to conserve physician time and maximize the productivity of physician review. The PSRO would progressively assume more and more review responsibility as its capacity expanded.

The professional standards review organization would be permitted to employ the services of qualified personnel, such as registered nurses, who could, under the direction and control of physicians, aid in assuring effective and timely review. A PSRO, in performing its tasks, would also be required to accept the review findings of review committees in hospitals and medical organizations to the extent these in-house review activities are effective.

Where advance approval by the review organizations for institutional admission is required, such approval would provide the basis for a presumption of medical necessity for purposes of medicare and medicaid benefit payments. Failure of a physician, institution, or other health care supplier to seek advance approval, where required, could be considered cause for disallowance of affected claims.

In addition to acting on their own initiative, the review organizations would report on matters referred to them by the Secretary. They would also recommend appropriate action against persons responsible for gross or continued overuse of services, use of services in an unnecessarily costly manner, or for inadequate quality of services and would act to the extent of their authority or influence to correct improper activities.

I cannot emphasize too strongly, however, that the thrust of PSRO activities is educational and not punitive.

Mr. President, we have had some experience in this field. There are some PSRO organizations now operating. We have had ample demonstration of the educational value of the activity.

A National Professional Standards Review Council would be established by the Secretary to assist in developing, improving, and evaluating norms of care as well as to review the operations of the local area review organizations, advise the Secretary on their effectiveness, and make recommendations for their improvement. The Council would be composed of physicians, a majority of whom would be selected from nominees of national organizations representing practicing physicians. Other physicians on the Council would be recommended by consumers and other health care interests.

As I have noted, the amendment was approved by the Committee on Finance and the full Senate in 1970 and was again approved by the Finance Committee in its consideration of H.R. 1. The amendment has been carefully studied by and has the endorsement of the Department of Health, Education, and Welfare, subject to an understanding that there may be technical problems involved on which the Department of HEW might suggest different approaches. However, the basic principle has been completely and thoroughly endorsed by the Department. Most of these areas of disagreement on the limited technical features have been resolved, and I am sure that we can resolve all of them before we get through. In addition, the amendment is supported by many concerned organizations, including a substantial number of State and county medical societies.

I believe today, as I said when I introduced the PSRO amendment in this Congress early this year that:

The relationship between the patient, the physician and the Government is at a crossroads in America today. The pressures for increased governmental involvement in the day-to-day practice of medicine are increasing continually as we move toward expanded Government financing of health care. Economics, commonsense and more importantly each demand that the Government take an increasingly active role in dealing with the cost and quality of medical care.

The PSRO amendment represents the best, and perhaps the last, opportunity to fully safeguard the public concern with respect to the cost and quality of medical care while, at the same time, leaving the actual control of medical practice in the hands of those best qualified—America's physicians.

Without an appropriate peer review mechanism to serve as a bridge between Government and medicine, I am afraid that the consequence will be increasing isolation between Government and medicine, working to the disadvantage of both, and, more importantly, to the disadvantage of the patient.

CONFERENCE REPORT

House of Representatives, 92-1605

to accompany H.R. 1

October 14, 1972

(PSRO Provision, p. 21;  
Managers' statement, p. 37 and pp. 58-59)

Amendment numbered 476:

That the House recede from its disagreement to the amendment of the Senate numbered 476, and agree to the same with amendments as follows:

On page 192, line 8, of the Senate engrossed amendments, strike out "unless" and insert the following: *prior to January 1, 1976, nor after such date, unless*

On page 194, between lines 7 and 8, of the Senate engrossed amendments, insert the following:

"(f) (1) *In the case of agreements entered into prior to January 1, 1976, under this part under which any organization is designated as the Professional Standards Review Organization for any area, the Secretary shall, prior to entering into any such agreement with any organization for any area, inform (under regulations of the Secretary) the doctors of medicine or osteopathy who are in active practice in such area of the Secretary's intention to enter into such an agreement with such organization.*

"(2) *If, within a reasonable period of time following the serving of such notice, more than 10 per centum of such doctors object to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in such area, the Secretary shall conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. If more than 50 per centum of the doctors responding to such poll indicate that such organization is not representative of such doctors in such area the Secretary shall not enter into such an agreement with such organization.*

On page 196, line 12, of the Senate engrossed amendments, after the word "shall" insert the following: *(subject to the provisions of subsection (g))*

On page 203, between lines 9 and 10, of the Senate engrossed amendments, insert the following:

"(g) *Notwithstanding any other provision of this part, the responsibility for review of health care services of any Professional Standards Review Organization shall be the review of health care services provided by or in institutions, unless such Organization shall have made a request to the Secretary that it be charged with the duty and function of reviewing other health care services and the Secretary shall have approved such request.*

And the Senate agree to the same.



## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

### PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Amendment No. 476: The Senate amendment added a new section to the House bill which provides for the establishment of Professional Standards Review organizations consisting of substantial numbers of practicing physicians (usually 300 or more) in local areas to assume responsibility for comprehensive and on-going review of services covered under the medicare and medicaid programs. The PSRO would be responsible for assuring that services were (1) medically necessary and (2) provided in accordance with professional standards. PSRO's would not be involved with reasonable charge determinations. The provision is designed to assure proper utilization of care and services provided in medicare and medicaid utilizing a formal professional mechanism representing the broadest possible cross-section of practicing physicians in an area. Safeguards are included, designed to protect the public interest, including appeals procedures, and to prevent pro forma assumption in carrying out review responsibilities. The provision requires recognition of and use by the PSRO of utilization review committees in hospitals and medical organizations to the extent determined effective.

The House recedes with the following amendment:

(1) Until January 1, 1976, the Secretary would be able to make an agreement only with a qualified organization which represents a substantial proportion of the physicians in the geographical area designated by the Secretary.

(2) A professional standards review organization would not be required to review other than institutional care and services unless such organization chooses to include the review of other services and the Secretary agrees.

(3) Until January 1, 1976, at the request of 10 percent or more of the practicing physicians in a geographical area designated by the Secretary, the Secretary would be required to poll the practicing physicians in the area as to whether or not an organization of physicians which has requested to conclude an agreement with the Secretary to establish a professional standards review organization in that area substantially represents the practicing physicians in that area.

If more than 50 percent of the practicing physicians in the area responding to the poll indicate that the organization does not substantially represent the practicing physicians in the area, the Secretary could not enter into an agreement with that organization.

From the Congressional Record, Vol. 118  
No. 168, October 17, 1972 (p. S18479 and p. H10196)

Remarks on the Senate Floor of Senator Russell B. Long  
on the Conference Report on H.R. 1, Social Security Act Amendments

Perhaps the most significant change, designed to promote quality of care and proper rendering of services in medicare and medicaid, is the PSRO amendment. Under this provision in the bill, qualified organizations of physicians will review all institutional care and, at their option and with the approval of the Secretary, all out-of-institution care provided under medicare and medicaid. The Secretary would approve such requests, of course, unless the PSRO is demonstrably not capable of coping with such review. Appropriate safeguards are included which are designed to assure public accountability and objective performance. An ad hoc advisory group consisting of physicians experienced in the operation of prototype review organizations—such as those in New Mexico, Georgia, Colorado, and Sacramento and San Joaquin, Calif.—is expected to assist in implementation of the PSRO amendment.

This is the area in which the Senator from Utah (Mr. BENNETT) worked so diligently and devotedly for several years, and I am convinced that it will be a monument to his statesmanship.

Remarks on the House Floor of Congressman Wilbur Mills  
on the Conference Report on H.R. 1, Social Security Act Amendments

The conference committee approved provisions which would authorize the establishment of professional standard review organizations. These organizations, which will be composed solely of physicians practicing in an area, will assume responsibility for the review of the utilization and quality of services provided under the medicare and medicaid programs. They would not be involved in determination of reasonable charges under medicare and medicaid, only whether the services provided are sound and proper. Safeguards are included which will protect the public's interest including appeal procedures and provisions to prevent pro forma performance. It may very well be that this will turn out to be one of the most important provisions of the bill. These organizations, which have already been set up in many States including California, Utah, New Mexico, Georgia, Pennsylvania, and Illinois, have already proven that they can do the job. I expect that as the physicians who are involved in these programs consult with and advise physicians in other areas, we will see a rapid expansion of the number of these organizations over the next few years.

Public Law 92-603  
92nd Congress, H.R. 1  
(pp. 101-117)

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PROFESSIONAL STANDARDS REVIEW

SEC. 249F. (a) The heading to title XI of the Social Security Act 42 USC 1301, is amended by striking out

"TITLE XI--GENERAL PROVISIONS"

and inserting in lieu thereof

"TITLE XI--GENERAL PROVISIONS AND  
PROFESSIONAL STANDARDS REVIEW

"PART A - GENERAL PROVISIONS"

(b) Title XI of such Act is further amended by adding the following:

"PART B--PROFESSIONAL STANDARDS REVIEW

"DECLARATION OF PURPOSE

"SEC. 1151. In order to promote the effective, efficient, and economical delivery of health care services of proper quality for which payment may be made (in whole or in part) under this Act and in recognition of the interests of patients, the public, practitioners, and providers in improved health care services, it is the purpose of this part to assure, through the application of suitable procedures of professional standards review, that the services for which payment may be made under the Social Security Act will conform to appropriate professional standards for the provision of health care and that payment for such services will be made--

"(1) only when, and to the extent, medically necessary, as determined in the exercise of reasonable limits of professional discretion; and

"(2) in the case of services provided by a hospital or other health care facility on an inpatient basis, only when and for such period as such services cannot, consistent with professionally recognized health care standards, effectively be provided on an outpatient basis or more economically in an inpatient health care facility of a different type, as determined in the exercise of reasonable limits of professional discretion.

"DESIGNATION OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"SEC. 1152. (a) The Secretary shall (1) not later than January 1, 1974, establish throughout the United States appropriate areas with respect to which Professional Standards Review Organizations may be designated, and (2) at the earliest practicable date after designation of an area enter into an agreement with a qualified organization whereby such an organization shall be conditionally designated as the Professional Standards Review Organization for such area. If, on the basis of its performance during such period of conditional designation, the Secretary determines that such organization is capable of fulfilling, in a satisfactory manner, the obligations and requirements for a Professional Standards Review Organization under this part, he shall enter into an agreement with such organization designating it as the Professional Standards Review Organization for such area.

"Qualified organization,"

"(b) For purposes of subsection (a), the term 'qualified organization' means—

"(1) when used in connection with any area—

"(A) an organization (i) which is a nonprofit professional association (or a component organization thereof), (ii) which is composed of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area, (iii) the membership of which includes a substantial proportion of all such physicians in such area, (iv) which is organized in a manner which makes available professional competence to review health care services of the types and kinds with respect to which Professional Standards Review Organizations have review responsibilities under this part, (v) the membership of which is voluntary and open to all doctors of medicine or osteopathy licensed to engage in the practice of medicine or surgery in such area without requirement of membership in or payment of dues to any organized medical society or association, and (vi) which does not restrict the eligibility of any member for service as an officer of the Professional Standards Review Organization or eligibility for and assignment to duties of such Professional Standards Review Organization, or, subject to subsection (c) (1),

"(B) such other public, nonprofit private, or other agency or organization, which the Secretary determines, in accordance with criteria prescribed by him in regulations, to be of professional competence and otherwise suitable; and

"(2) an organization which the Secretary, on the basis of his examination and evaluation of a formal plan submitted to him by the association, agency, or organization (as well as on the basis of other relevant data and information), finds to be willing to perform and capable of performing, in an effective, timely, and objective manner and at reasonable cost, the duties, functions, and

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activities of a Professional Standards Review Organization required by or pursuant to this part.

"(c) (1) The Secretary shall not enter into any agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b) (1) (A) prior to January 1, 1976, nor after such date, unless, in such area, there is no organization referred to in subsection (b) (1) (A) which meets the conditions specified in subsection (b) (2).

"(2) Whenever the Secretary shall have entered into an agreement under this part under which there is designated as the Professional Standards Review Organization for any area any organization other than an organization referred to in subsection (b) (1) (A), he shall not renew such agreements with such organization if he determines that—

"(A) there is in such area an organization referred to in subsection (b) (1) (A) which (i) has not been previously designated as a Professional Standards Review Organization, and (ii) is willing to enter into an agreement under this part under which such organization would be designated as the Professional Standards Review Organization for such area;

"(B) such organization meets the conditions specified in subsection (b) (2); and

"(C) the designation of such organization as the Professional Standards Review Organization for such area is anticipated to result in substantial improvement in the performance in such area of the duties and functions required of such organizations under this part.

"(d) Any such agreement under this part with an organization (other than an agreement established pursuant to section 1154) shall be for a term of 12 months; except that, prior to the expiration of such term such agreement may be terminated—

Agreement expiration, prior termination, Post, p. 1432.

"(1) by the organization at such time and upon such notice to the Secretary as may be prescribed in regulations (except that notice of more than 3 months may not be required); or

"(2) by the Secretary at such time and upon such reasonable notice to the organization as may be prescribed in regulations, but only after the Secretary has determined (after providing such organization with an opportunity for a formal hearing on the matter) that such organization is not substantially complying with or effectively carrying out the provisions of such agreement.

"(e) In order to avoid duplication of functions and unnecessary review and control activities, the Secretary is authorized to waive any or all of the review, certification, or similar activities otherwise required under or pursuant to any provision of this Act (other than this part) where he finds, on the basis of substantial evidence of the effective performance of review and control activities by Professional Standards Review Organizations, that the review, certification, and similar activities otherwise so required are not needed for the provision of adequate review and control.

Waiver.

"(f) (1) In the case of agreements entered into prior to January 1, 1976, under this part under which any organization is designated as the Professional Standards Review Organization for any area, the Secretary shall, prior to entering into any such agreement with any organization for any area, inform (under regulations of the Secretary) the doctors of medicine or osteopathy who are in active practice in such area of the Secretary's intention to enter into such an agreement with such organization.

Agreement notice.



"(2) If, within a reasonable period of time following the serving of such notice, more than 10 per centum of such doctors object to the Secretary's entering into such an agreement with such organization on the ground that such organization is not representative of doctors in such area, the Secretary shall conduct a poll of such doctors to determine whether or not such organization is representative of such doctors in such area. If more than 50 per centum of the doctors responding to such poll indicate that such organization is not representative of such doctors in such area the Secretary shall not enter into such an agreement with such organization.

"REVIEW PENDING DESIGNATION OF PROFESSIONAL STANDARDS  
REVIEW ORGANIZATION

"SEC. 1153. Pending the assumption by a Professional Standards Review Organization for any area, of full review responsibility, and pending a demonstration of capacity for improved review effort with respect to matters involving the provision of health care services in such area for which payment (in whole or in part) may be made, under this Act, any review with respect to such services which has not been designated by the Secretary as the full responsibility of such organization, shall be reviewed in the manner otherwise provided for under law.

"TRIAL PERIOD FOR PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Plan, approval. "SEC. 1154. (a) The Secretary shall initially designate an organization as a Professional Standards Review Organization for any area on a conditional basis with a view to determining the capacity of such organization to perform the duties and functions imposed under this part on Professional Standards Review Organizations. Such designation may not be made prior to receipt from such organization and approval by the Secretary of a formal plan for the orderly assumption and implementation of the responsibilities of the Professional Standards Review Organization under this part.

Duties. "(b) During any such trial period (which may not exceed 24 months), the Secretary may require a Professional Standards Review Organization to perform only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing. The number and type of such duties shall, during the trial period, be progressively increased as the organization becomes capable of added responsibility so that, by the end of such period, such organization shall be considered a qualified organization only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided or ordered by physicians and other practitioners and institutional and other health care facilities, agencies, and organizations. Any of such duties and functions not performed by such organization during such period shall be performed in the manner and to the extent otherwise provided for under law.

Termination. notice. "(c) Any agreement under which any organization is conditionally designated as the Professional Standards Review Organization for any area may be terminated by such organization upon 90 days notice to the Secretary or by the Secretary upon 90 days notice to such organization.

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"DUTIES AND FUNCTIONS OF PROFESSIONAL STANDARDS REVIEW  
ORGANIZATIONS

"Sec. 1155. (a) (1) Notwithstanding any other provision of law, but consistent with the provisions of this part, it shall (subject to the provisions of subsection (g)) be the duty and function of each Professional Standards Review Organization for any area to assume, at the earliest date practicable, responsibility for the review of the professional activities in such area of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under this Act for the purpose of determining whether—

"(A) such services and items are or were medically necessary;

"(B) the quality of such services meets professionally recognized standards of health care; and

"(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided on an outpatient basis or more economically in an inpatient health care facility of a different type.

"(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

"(A) any elective admission to a hospital, or other health care facility, or

"(B) any other health care service which will consist of extended or costly courses of treatment, whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in clauses (A) and (C) of paragraph (1).

"(3) Each Professional Standards Review Organization shall, in accordance with regulations of the Secretary, determine and publish, from time to time, the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order most effectively to carry out the purposes of this part, exercise the authority conferred upon it under paragraph (2).

Case criteria,  
publication.

"(4) Each Professional Standards Review Organization shall be responsible for the arranging for the maintenance of and the regular review of profiles of care and services received and provided with respect to patients, utilizing to the greatest extent practicable in such patient profiles, methods of coding which will provide maximum confidentiality as to patient identity and assure objective evaluation consistent with the purposes of this part. Profiles shall also be regularly reviewed on an ongoing basis with respect to each health care practitioner and provider to determine whether the care and services ordered or rendered are consistent with the criteria specified in clauses (A), (B), and (C) of paragraph (1).

Patient profiles,  
maintenance and  
review.

"(5) Physicians assigned responsibility for the review of hospital care may be only those having active hospital staff privileges in at least one of the participating hospitals in the area served by the Professional Standards Review Organization and (except as may be otherwise provided under subsection (e) (1) of this section) such physicians ordinarily should not be responsible for, but may participate in the review of care and services provided in any hospital in which such physicians have active staff privileges.

Hospital care,  
physician re-  
view.

Physician's  
family.

"(6) No physician shall be permitted to review—

"(A) health care services provided to a patient if he was directly or indirectly involved in providing such services, or

"(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, any financial interest in such institution, organization, or agency.

For purposes of this paragraph, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

"(b) To the extent necessary or appropriate for the proper performance of its duties and functions, the Professional Standards Review Organization serving any area is authorized in accordance with regulations prescribed by the Secretary to—

"(1) make arrangements to utilize the services of persons who are practitioners of or specialists in the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

"(2) undertake such professional inquiry either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review under subsection (a) (1);

"(3) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under subsection (a) (1); and

"(4) inspect the facilities in which care is rendered or services provided (which are located in such area) of any practitioner or provider.

"(c) No Professional Standards Review Organization shall utilize the services of any individual who is not a duly licensed doctor of medicine or osteopathy to make final determinations in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine or osteopathy, or any act performed by any duly licensed doctor of medicine or osteopathy in the exercise of his profession.

"(d) In order to familiarize physicians with the review functions and activities of Professional Standards Review Organizations and to promote acceptance of such functions and activities by physicians, patients, and other persons, each Professional Standards Review Organization, in carrying out its review responsibilities, shall (to the maximum extent consistent with the effective and timely performance of its duties and functions)—

"(1) encourage all physicians practicing their profession in the area served by such Organization to participate as reviewers in the review activities of such Organizations;

"(2) provide rotating physician membership of review committees on an extensive and continuing basis;

"(3) assure that membership on review committees have the broadest representation feasible in terms of the various types of practice in which physicians engage in the area served by such Organization; and

"(4) utilize, whenever appropriate, medical periodicals and similar publications to publicize the functions and activities of Professional Standards Review Organizations.

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"(e) (1) Each Professional Standards Review Organization shall utilize the services of, and accept the findings of, the review committees of a hospital or other operating health care facility or organization located in the area served by such organization, but only when and only to the extent and only for such time that such committees in such hospital or other operating health care facility or organization have demonstrated to the satisfaction of such organization their capacity effectively and in timely fashion to review activities in such hospital or other operating health care facility or organization (including the medical necessity of admissions, types and extent of services ordered, and lengths of stay) so as to aid in accomplishing the purposes and responsibilities described in subsection (a) (1), except where the Secretary disapproves, for good cause, such acceptance.

Review committees.

"(2) The Secretary may prescribe regulations to carry out the provisions of this subsection.

Regulations.

"(f) (1) An agreement entered into under this part between the Secretary and any organization under which such organization is designated as the Professional Standards Review Organization for any area shall provide that such organization will—

Agreement requirements.

"(A) perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part; and

"(B) collect such data relevant to its functions and such information and keep and maintain such records in such form as the Secretary may require to carry out the purposes of this part and to permit access to and use of any such records as the Secretary may require for such purposes.

"(2) Any such agreement with an organization under this part shall provide that the Secretary make payments to such organization equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organization in carrying out or preparing to carry out the duties and functions required by such agreement.

"(g) Notwithstanding any other provision of this part, the responsibility for review of health care services of any Professional Standards Review Organization shall be the review of health care services provided by or in institutions, unless such Organization shall have made a request to the Secretary that it be charged with the duty and function of reviewing other health care services and the Secretary shall have approved such request.

"NORMS OF HEALTH CARE SERVICES FOR VARIOUS ILLNESSES OR HEALTH CONDITIONS

"SEC. 1156. (a) Each Professional Standards Review Organization shall apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice in its regions (including typical lengths-of-stay for institutional care by age and diagnosis) as principal points of evaluation and review. The National Professional Standards Review Council and the Secretary shall provide such technical assistance to the organization as will be helpful in utilizing and applying such norms of care, diagnosis, and treatment. Where the actual norms of care, diagnosis, and treatment in a Professional Standards Review Organization area are significantly different from professionally developed regional norms of care, diagnosis, and

treatment approved for comparable conditions, the Professional Standards Review Organization concerned shall be so informed, and in the event that appropriate consultation and discussion indicate reasonable basis for usage of other norms in the area concerned, the Professional Standards Review Organization may apply such norms in such area as are approved by the National Professional Standards Review Council.

"(b) Such norms with respect to treatment for particular illnesses or health conditions shall include (in accordance with regulations of the Secretary)—

"(1) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care;

"(2) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

Preparation and  
distribution of  
data.

"(c) (1) The National Professional Standards Review Council shall provide for the preparation and distribution, to each Professional Standards Review Organization and to each other agency or person performing review functions with respect to the provision of health care services under this Act, of appropriate materials indicating the regional norms to be utilized pursuant to this part. Such data concerning norms shall be reviewed and revised from time to time. The approval of the National Professional Standards Review Council of norms of care, diagnosis, and treatment shall be based on its analysis of appropriate and adequate data.

"(2) Each review organization, agency, or person referred to in paragraph (1) shall utilize the norms developed under this section as a principal point of evaluation and review for determining, with respect to any health care services which have been or are proposed to be provided, whether such care and services are consistent with the criteria specified in section 1155(a) (1).

Ante, p. 1433.

"(d) (1) Each Professional Standards Review Organization shall —

"(A) in accordance with regulations of the Secretary, specify the appropriate points in time after the admission of a patient for inpatient care in a health care institution, at which the physician attending such patient shall execute a certification stating that further inpatient care in such institution will be medically necessary effectively to meet the health care needs of such patient; and

"(B) require that there be included in any such certification with respect to any patient such information as may be necessary to enable such organization properly to evaluate the medical necessity of the further institutional health care recommended by the physician executing such certification.

"(2) The points in time at which any such certification will be required (usually, not later than the 50th percentile of lengths-of-stay for patients in similar age groups with similar diagnoses) shall be consistent with and based on professionally developed norms of care and treatment and data developed with respect to length of stay in health care institutions of patients having various illnesses, injuries, or health conditions, and requiring various types of health care services or procedures.



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"SUBMISSION OF REPORTS BY PROFESSIONAL STANDARDS REVIEW  
ORGANIZATIONS

"SEC. 1157. If, in discharging its duties and functions under this part, any Professional Standards Review Organization determines that any health care practitioner or any hospital, or other health care facility, agency, or organization has violated any of the obligations imposed by section 1160, such organization shall report the matter to the Statewide Professional Standards Review Council for the State in which such organization is located together with the recommendations of such Organization as to the action which should be taken with respect to the matter. Any Statewide Professional Standards Review Council receiving any such report and recommendation shall review the same and promptly transmit such report and recommendation to the Secretary together with any additional comments or recommendations thereon as it deems appropriate. The Secretary may utilize a Professional Standards Review Organization, in lieu of a program review team as specified in sections 1862 and 1866, for purposes of subparagraph (C) of section 1862(d)(1) and subparagraph (F) of section 1866(b)(2).

Post, p. 1438.

79 Stat. 325;

81 Stat. 846.

42 USC 1395y,

1395ao.

Ante, p. 1408.

Ante, p. 1409.

"REQUIREMENT OF REVIEW APPROVAL AS CONDITION OF PAYMENT OF CLAIMS

"SEC. 1158. (a) Except as provided for in section 1159, no Federal funds appropriated under any title of this Act (other than title V) for the provision of health care services or items shall be used (directly or indirectly) for the payment, under such title or any program established pursuant thereto, of any claim for the provision of such services or items, unless the Secretary, pursuant to regulation determines that the claimant is without fault if—

81 Stat. 921.

42 USC 701.

"(1) the provision of such services or items is subject to review under this part by any Professional Standards Review Organization, or other agency; and

"(2) such organization or other agency has, in the proper exercise of its duties and functions under or consistent with the purposes of this part, disapproved of the services or items giving rise to such claim, and has notified the practitioner or provider who provided or proposed to provide such services or items and the individual who would receive or was proposed to receive such services or items of its disapproval of the provision of such services or items.

"(b) Whenever any Professional Standards Review Organization, in the discharge of its duties and functions as specified by or pursuant to this part, disapproves of any health care services or items furnished or to be furnished by any practitioner or provider, such organization shall, after notifying the practitioner, provider, or other organization or agency of its disapproval in accordance with subsection (a), promptly notify the agency or organization having responsibility for acting upon claims for payment for or on account of such services or items.

"HEARINGS AND REVIEW BY SECRETARY

"SEC. 1159. (a) Any beneficiary or recipient who is entitled to benefits under this Act (other than title V) or a provider or practitioner who is dissatisfied with a determination with respect to a claim made by a Professional Standards Review Organization in carrying out its responsibilities for the review of professional activities in accordance with paragraphs (1) and (2) of section 1155(a) shall, after being

Ante, p. 1433.

53 Stat. 1368,  
42 USC 405.

notified of such determination, be entitled to a reconsideration thereof by the Professional Standards Review Organization and, where the Professional Standards Review Organization reaffirms such determination in a State which has established a Statewide Professional Standards Review Council, and where the matter in controversy is \$100 or more, such determination shall be reviewed by professional members of such Council and, if the Council so determined, revised.

"(b) Where the determination of the Statewide Professional Standards Review Council is adverse to the beneficiary or recipient (or, in the absence of such Council in a State and where the matter in controversy is \$100 or more), such beneficiary or recipient shall be entitled to a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and, where the amount in controversy is \$1,000 or more, to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). The Secretary will render a decision only after appropriate professional consultation on the matter.

"(c) Any review or appeals provided under this section shall be in lieu of any review, hearing, or appeal under this Act with respect to the same issue.

"OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW

"SEC. 1160. (a) (1) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under this Act, to assure that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under this Act—

"(A) will be provided only when, and to the extent, medically necessary; and

"(B) will be of a quality which meets professionally recognized standards of health care; and

"(C) will be supported by evidence of such medical necessity and quality in such form and fashion and at such time as may reasonably be required by the Professional Standards Review Organization in the exercise of its duties and responsibilities;

and it shall be the obligation of any health care practitioner in ordering, authorizing, directing, or arranging for the provision by any other person (including a hospital or other health care facility, organization, or agency), of health care services for any patient of such practitioner, to exercise his professional responsibility with a view to assuring (to the extent of his influence or control over such patient, such person, or the provision of such services) that such services or items will be provided—

"(D) only when, and to the extent, medically necessary; and

"(E) will be of a quality which meets professionally recognized standards of health care.

"(2) Each health care practitioner, and each hospital or other provider of health care services, shall have an obligation, within reasonable limits of professional discretion, not to take any action, in the exercise of his profession (in the case of any health care practitioner), or in the conduct of its business (in the case of any hospital or other such provider), which would authorize any individual to be admitted as an inpatient in or to continue as an inpatient in any hospital or other health care facility unless—

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"(A) inpatient care is determined by such practitioner and by such hospital or other provider, consistent with professionally recognized health care standards, to be medically necessary for the proper care of such individual; and

"(B) (i) the inpatient care required by such individual cannot, consistent with such standards, be provided more economically in a health care facility of a different type; or

"(ii) (in the case of a patient who requires care which can, consistent with such standards, be provided more economically in a health care facility of a different type) there is, in the area in which such individual is located, no such facility or no such facility which is available to provide care to such individual at the time when care is needed by him.

"(b) (1) If after reasonable notice and opportunity for discussion with the practitioner or provider concerned, any Professional Standards Review Organization submits a report and recommendations to the Secretary pursuant to section 1157 (which report and recommendations shall be submitted through the Statewide Professional Standards Review Council, if such Council has been established, which shall promptly transmit such report and recommendations together with any additional comments and recommendations thereon as it deems appropriate) and if the Secretary determines that such practitioner or provider, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under this Act has—

Report and  
recommendations.

Ante, p. 1437.

"(A) by failing, in a substantial number of cases, substantially to comply with any obligation imposed on him under subsection (a), or

"(B) by grossly and flagrantly violating any such obligation in one or more instances.

demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, he (in addition to any other sanction provided under law) may exclude (permanently for such period as the Secretary may prescribe) such practitioner or provider from eligibility to provide such services on a reimbursable basis.

"(2) A determination made by the Secretary under this subsection shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in title XVIII with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

79 Stat. 1301.  
42 USC 1395.

"(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or provider to provide such health care services on a reimbursable basis) such practitioner or provider pay to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or provider of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided, or (if less) \$5,000. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the person from whom such amount is claimed.

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53 Stat., 1368.  
42 USC 405.

"(4) Any person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205 (b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205 (g).

"(c) It shall be the duty of each Professional Standards Review Organization and each Statewide Professional Standards Review Council to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or provider (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

"NOTICE TO PRACTITIONER OR PROVIDER

"SEC. 1161. Whenever any Professional Standards Review Organization takes any action or makes any determination—

"(a) which denies any request, by a health care practitioner or other provider of health care services, for approval of a health care service or item proposed to be ordered or provided by such practitioner or provider; or

"(b) that any such practitioner or provider has violated an obligation imposed on such practitioner or provider under section 1160,

such organization shall, immediately after taking such action or making such determination, give notice to such practitioner or provider of such determination and the basis therefor, and shall provide him with appropriate opportunity for discussion and review of the matter.

"STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS; ADVISORY GROUPS TO SUCH COUNCILS

Establishment,      "SEC. 1162. (a) In any State in which there are located three or more Professional Standards Review Organizations, the Secretary shall establish a Statewide Professional Standards Review Council.

Membership,      "(b) The membership of any such Council for any State shall be appointed by the Secretary and shall consist of—

"(1) one representative from and designated by each Professional Standards Review Organization in the State;

"(2) four physicians, two of whom may be designated by the State medical society and two of whom may be designated by the State hospital association of such State to serve as members on such Council; and

"(3) four persons knowledgeable in health care from such State whom the Secretary shall have selected as representatives of the public in such State (at least two of whom shall have been recommended for membership on the Council by the Governor of such State).

Duties,      "(c) It shall be the duty and function of the Statewide Professional Standards Review Council for any State, in accordance with regulations of the Secretary, (1) to coordinate the activities of, and disseminate information and data among the various Professional Standards Review Organizations within such State including assisting the Secre-

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tary in development of uniform data gathering procedures and operating procedures applicable to the several areas in a State (including, where appropriate, common data processing operations serving several or all areas) to assure efficient operation and objective evaluation of comparative performance of the several areas and, (2) to assist the Secretary in evaluating the performance of each Professional Standards Review Organization, and (3) where the Secretary finds it necessary to replace a Professional Standards Review Organization, to assist him in developing and arranging for a qualified replacement Professional Standards Review Organization.

"(d) The Secretary is authorized to enter into an agreement with any such Council under which the Secretary shall make payments to such Council equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such Council in carrying out the duties and functions provided in this section. Payments.

"(e) (1) The Statewide Professional Standards Review Council for any State (or in a State which does not have such Council, the Professional Standards Review Organizations in such State which have agreements with the Secretary) shall be advised and assisted in carrying out its functions by an advisory group (of not less than seven nor more than eleven members) which shall be made up of representatives of health care practitioners (other than physicians) and hospitals and other health care facilities which provide within the State health care services for which payment (in whole or in part) may be made under any program established by or pursuant to this Act.

"(2) The Secretary shall by regulations provide the manner in which members of such advisory group shall be selected by the Statewide Professional Standards Review Council (or Professional Standards Review Organizations in States without such Councils). Member selection, regulations.

"(3) The expenses reasonably and necessarily incurred, as determined by the Secretary, by such group in carrying out its duties and functions under this subsection shall be considered to be expenses necessarily incurred by the Statewide Professional Standards Review Council served by such group. Expenses.

#### "NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

"Sec. 1163. (a) (1) There shall be established a National Professional Standards Review Council (hereinafter in this section referred to as the 'Council') which shall consist of eleven physicians, not otherwise in the employ of the United States, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Establishment; membership. 5 USC 101 et seq.

"(2) Members of the Council shall be appointed for a term of three years and shall be eligible for reappointment. Term of membership.

"(3) The Secretary shall from time to time designate one of the members of the Council to serve as Chairman thereof.

"(b) Members of the Council shall consist of physicians of recognized standing and distinction in the appraisal of medical practice. A majority of such members shall be physicians who have been recommended by the Secretary to serve on the Council by national organizations recognized by the Secretary as representing practicing physicians. The membership of the Council shall include physicians who have been recommended for membership on the Council by consumer groups and other health care interests. Qualifications.

"(c) The Council is authorized to utilize, and the Secretary shall make available, or arrange for, such technical and professional consultative assistance as may be required to carry out its functions, and the Consultants.



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Secretary shall, in addition, make available to the Council such secretarial, clerical and other assistance and such pertinent data prepared by, for, or otherwise available to, the Department of Health, Education, and Welfare as the Council may require to carry out its functions.

Compensation.

5 USC 5332  
note.

"(d) Members of the Council, while serving on business of the Council, shall be entitled to receive compensation at a rate fixed by the Secretary (but not in excess of the daily rate paid under GS-18 of the General Schedule under section 5332 of title 5, United States Code), including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

Duties.

"(e) It shall be the duty of the Council to—

"(1) advise the Secretary in the administration of this part;

"(2) provide for the development and distribution, among Statewide Professional Standards Review Councils and Professional Standards Review Organizations of information and data which will assist such review councils and organizations in carrying out their duties and functions;

"(3) review the operations of Statewide Professional Standards Review Councils and Professional Standards Review Organizations with a view to determining the effectiveness and comparative performance of such review councils and organizations in carrying out the purposes of this part; and

"(4) make or arrange for the making of studies and investigations with a view to developing and recommending to the Secretary and to the Congress measures designed more effectively to accomplish the purposes and objectives of this part.

Report to  
Secretary and  
Congress.

"(f) The National Professional Standards Review Council shall from time to time, but not less often than annually, submit to the Secretary and to the Congress a report on its activities and shall include in such report the findings of its studies and investigations together with any recommendations it may have with respect to the more effective accomplishment of the purposes and objectives of this part. Such report shall also contain comparative data indicating the results of review activities, conducted pursuant to this part, in each State and in each of the various areas thereof.

"APPLICATION OF THIS PART TO CERTAIN STATE PROGRAMS RECEIVING  
FEDERAL FINANCIAL ASSISTANCE

"SEC. 1164. (a) In addition to the requirements imposed by law as a condition of approval of a State plan approved under any title of this Act under which health care services are paid for in whole or part, with Federal funds, there is hereby imposed the requirement that provisions of this part shall apply to the operation of such plan or program.

"(b) The requirement imposed by subsection (a) with respect to such State plans approved under this Act shall apply—

"(1) in the case of any such plan where legislative action by the State legislature is not necessary to meet such requirement, on and after January 1, 1974; and

"(2) in the case of any such plan where legislative action by the State legislature is necessary to meet such requirement, whichever of the following is earlier—

"(A) on and after July 1, 1974, or

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"(B) on and after the first day of the calendar month which first commences more than ninety days after the close of the first regular session of the legislature of such State which begins after December 31, 1973.

"CORRELATION OF FUNCTIONS BETWEEN PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS AND ADMINISTRATIVE INSTRUMENTALITIES

"SEC. 1165. The Secretary shall by regulations provide for such correlation of activities, such interchange of data and information, and such other cooperation consistent with economical, efficient, coordinated, and comprehensive implementation of this part (including, but not limited to, usage of existing mechanical and other data-gathering capacity) between and among—

"(a) (1) agencies and organizations which are parties to agreements entered into pursuant to section 1816, (2) carriers which are parties to contracts entered into pursuant to section 1842, and (3) any other public or private agency (other than a Professional Standards Review Organization) having review or control functions, or proved relevant data-gathering procedures and experience, and

79 Stat. 297.  
42 USC 1395h.  
42 USC 1395u.

"(b) Professional Standards Review Organizations, as may be necessary or appropriate for the effective administration of title XVIII, or State plans approved under this Act.

42 USC 1395.

"PROHIBITION AGAINST DISCLOSURE OF INFORMATION

"SEC. 1166. (a) Any data or information acquired by any Professional Standards Review Organization, in the exercise of its duties and functions, shall be held in confidence and shall not be disclosed to any person except (1) to the extent that may be necessary to carry out the purposes of this part or (2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care.

"(b) It shall be unlawful for any person to disclose any such information other than for such purposes, and any person violating the provisions of this section shall, upon conviction, be fined not more than \$1,000, and imprisoned for not more than six months, or both, together with the costs of prosecution. Penalty.

"LIMITATION ON LIABILITY FOR PERSONS PROVIDING INFORMATION, AND FOR MEMBERS AND EMPLOYEES OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS, AND FOR HEALTH CARE PRACTITIONERS AND PROVIDERS

"SEC. 1167. (a) Notwithstanding any other provision of law, no person providing information to any Professional Standards Review Organization shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) unless—

"(1) such information is unrelated to the performance of the duties and functions of such Organization, or

"(2) such information is false and the person providing such information knew, or had reason to believe, that such information was false.

"(b) (1) No individual who, as a member or employee of any Professional Standards Review Organization or who furnishes profes-

sional counsel or services to such organization, shall be held by reason of the performance by him of any duty, function, or activity authorized or required of Professional Standards Review Organizations under this part, to have violated any criminal law, or to be civilly liable under any law, of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

"(2) The provisions of paragraph (1) shall not apply with respect to any action taken by any individual if such individual, in taking such action, was motivated by malice toward any person affected by such action.

"(c) No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by a Professional Standards Review Organization (which has been designated in accordance with section 1152(b)(1)(A)) operating in the area where such doctor of medicine or osteopathy or provider took such action but only if—

"(1) he takes such action (in the case of a health care practitioner) in the exercise of his profession as a doctor of medicine or osteopathy (or in the case of a provider of health care services) in the exercise of his functions as a provider of health care services, and

"(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

"AUTHORIZATION FOR USE OF CERTAIN FUNDS TO ADMINISTER THE PROVISIONS OF THIS PART

"Sec. 1168. Expenses incurred in the administration of this part shall be payable from—

"(a) funds in the Federal Hospital Insurance Trust Fund;

"(b) funds in the Federal Supplementary Medical Insurance Trust Fund; and

"(c) funds appropriated to carry out the health care provisions of the several titles of this Act;

in such amounts from each of the sources of funds (referred to in subsections (a), (b), and (c)) as the Secretary shall deem to be fair and equitable after taking into consideration the costs attributable to the administration of this part with respect to each of such plans and programs.

"TECHNICAL ASSISTANCE TO ORGANIZATIONS DESIRING TO BE DESIGNATED AS PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"Sec. 1169. The Secretary is authorized to provide all necessary technical and other assistance (including the preparation of prototype plans of organization and operation) to organizations described in section 1152(b)(1) which—

"(a) express a desire to be designated as a Professional Standards Review Organization; and

"(b) the Secretary determines have a potential for meeting the requirements of a Professional Standards Review Organization;

Ante, p. 1430.

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to assist such organizations in developing a proper plan to be submitted to the Secretary and otherwise in preparing to meet the requirements of this part for designation as a Professional Standards Review Organization.

<sup>2</sup>EXEMPTIONS OF CHRISTIAN SCIENCE SANATORIUMS

"Sec. 1170. The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts."



Public Law 94-182  
94th Congress, H. R. 10284  
December 31, 1975

## An Act

To amend title XVIII of the Social Security Act, and for other purposes.

*Be it enacted by the House of Representatives and the Senate of the United States of America in Congress assembled,*

### TITLE I—PROVISIONS RELATING TO HEALTH SERVICES

Medicare;  
food stamp  
distribution;  
irrigation dams,  
taxes.

#### PREVAILING CHARGE LEVEL FOR FISCAL YEAR 1976

SEC. 101. (a) Section 1842(b)(3) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of the third and fourth sentences preceding this sentence, the prevailing charge level in the case of a physician service in a particular locality determined pursuant to such third and fourth sentences for the fiscal year beginning July 1, 1975, shall, if lower than the prevailing charge level for the fiscal year ending June 30, 1975, in the case of a similar physician service in the same locality by reason of the application of economic index data, be raised to such prevailing charge level for the fiscal year ending June 30, 1975."

42 USC 1395u.

(b) The amendment made by subsection (a) shall be applicable with respect to claims filed under part B of title XVIII of the Social Security Act with a carrier designated pursuant to section 1842 of such Act and processed by such carrier after the appropriate changes were made in the prevailing charge levels for the fiscal year beginning July 1, 1975, on the basis of economic index data under the third and fourth sentences of section 1842(b)(3) of such Act; except that (1) if less than the correct amount was paid (after the application of subsection (a) of this section) on any claim processed prior to the enactment of this section, the correct amount shall be paid by such carrier at such time (not exceeding 6 months after the date of the enactment of this section) as is administratively feasible, and (2) no such payment shall be made on any claim where the difference between the amount paid and the correct amount due is less than \$1.

42 USC 1395u  
note.

42 USC 1395j.

#### EXTENSION OF AUTHORITY TO WAIVE 24-HOUR NURSING SERVICE REQUIREMENT FOR CERTAIN RURAL HOSPITALS

SEC. 102. Section 1861(e)(5) of the Social Security Act is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1979".

42 USC 1395x.

#### COORDINATION BETWEEN MEDICARE AND FEDERAL EMPLOYEES' HEALTH BENEFITS PROGRAM

SEC. 103. Section 1862(c) of the Social Security Act is repealed.

Repeal.  
42 USC 1395y.



TECHNICAL AMENDMENT RELATING TO PART B PREMIUM  
DETERMINATIONS

- 42 USC 1395r. SEC. 104. (a) Section 1839(c)(3) of the Social Security Act is amended by striking out "June 1" each place it appears and inserting in lieu thereof "May 1".
- Effective date. (b) The amendments made by subsection (a) shall apply with  
42 USC 1395r respect to determinations made under section 1839(c)(3) of the Social  
note. Security Act after the date of the enactment of this Act.

PROFESSIONAL STANDARDS REVIEW AREAS

- 42 USC 1320c-1. SEC. 105. Section 1152 of the Social Security Act is amended by adding at the end thereof the following new subsection:
- Poll. "(g) (1) In any case in which the Secretary has established, within a State, two or more appropriate areas with respect to which Professional Standards Review Organizations may be designated, he shall, prior to designating a Professional Standards Review Organization for any such area, conduct in each such area a poll in which the doctors of medicine and doctors of osteopathy engaged in active practice therein will be asked: 'Do you support a change from the present local and regional Professional Standards Review Organization area designations to a single statewide area designation?'. If, in each such area, more than 50 per centum of the doctors responding to such question respond in the affirmative, then the Secretary shall establish the entire State as a single Professional Standards Review Organization area.
- Nonapplicability. "(2) The provisions of paragraph (1) shall not be applicable with respect to the designation of Professional Standards Review Organization areas in any State, if, prior to the date of enactment of this subsection, the Secretary has entered into an agreement (on a conditional basis or otherwise) with an organization designating it as the Professional Standards Review Organization for any area in the State."

UPDATING OF THE LIFE SAFETY REQUIREMENTS APPLICABLE TO  
NURSING HOMES

- 42 USC 1395x. SEC. 106. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "(21st edition, 1967)" and inserting in lieu thereof "(23d edition, 1973)".
- Effective date. (b) Subject to subsection (c), the amendment made by subsection  
42 USC 1395x (a) shall be effective on the first day of the sixth month which begins  
note. after the date of enactment of this Act.
- (c) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day preceding the first day referred to in subsection (b) shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII and XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section.
- 42 USC 1395,  
1396.

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GRANTS FOR CERTAIN EXPERIMENTS AND DEMONSTRATION PROJECTS

SEC. 107. Nothing contained in section 222(a) of Public Law 92-603 shall be construed to preclude or prohibit the Secretary of Health, Education, and Welfare from including in any grant otherwise authorized to be made under such section moneys which are to be used for payments, to a participant in a demonstration or experiment with respect to which the grant is made, for or on account of costs incurred or services performed by such participant for a period prior to the date that the project of such participant is placed in operation, if—

42 USC 1395f  
note.

(1) the applicant for such grant is a State or an agency thereof,

(2) such participant is an individual practice association which has been in existence for at least 3 years prior to the date of enactment of this section and which has in effect a contract with such State (or an agency thereof); entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act,

42 USC 1396.

(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3).

PROFESSIONAL STANDARDS REVIEW ORGANIZATION STARTUP DEADLINE

SEC. 108. (a) Subsections (c) (1) and (f) (1) of section 1152 of the Social Security Act are each amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978".

42 USC 1320c-1.

(b) The amendments made by subsection (a) shall not apply in any area designated in accordance with section 1152(a) (1) of the Social Security Act where—

42 USC 1320c-1  
note.

(1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or

(2) the organization proposed to be designated by the Secretary under section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f) (2) thereof.

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR CERTAIN SERVICES PROVIDED BY OPTOMETRISTS

SEC. 109. The Secretary of Health, Education, and Welfare shall conduct a study of, and submit to the Congress not later than 4 months after the date of enactment of this section a report containing his findings and recommendations with respect to, the appropriateness of reimbursement under the insurance program established by part B of

Study, report  
to Congress.  
42 USC 1395j  
note.

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- 42 USC 1395j. title XVIII of the Social Security Act for services performed by doctors of optometry but not presently recognized for purposes of reimbursement with respect to the provision of prosthetic lenses for patients with aphakia.

UTILIZATION REVIEW UNDER MEDICAID

- 42 USC 1396b. SEC. 110. (a) Section 1903(g)(1)(C) of the Social Security Act is amended to read as follows:

- 42 USC 1396a. " (C) such State has in effect a continuous program of review of utilization pursuant to section 1902(a)(30) whereby each admission is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved; and the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 per centum of all admissions and must be of sufficient size to serve the purpose of (i) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (ii) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted; and".

- Effective date. (b) The amendment made by subsection (a) shall take effect on the first day of the first calendar month which begins not less than 90 days after the date of enactment of this Act.
- 42 USC 1396b note.

CONSENT BY STATES TO CERTAIN SUITS

- 42 USC 1396a. SEC. 111. (a) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

- 42 USC 1395x. " (g) Notwithstanding any other provision of this title, a State plan for medical assistance must include a consent by the State to the exercise of the judicial power of the United States in any suit brought against the State or a State officer by or on behalf of any provider of services (as defined in section 1861(u)) with respect to the application of subsection (a)(13)(D) to services furnished under such plan after June 30, 1975, and a waiver by the State of any immunity from such a suit conferred by the 11th amendment to the Constitution or otherwise."

- USC prec. title 1. (b) Section 1903 of such Act is amended by adding at the end thereof
- 42 USC 1396b. the following new subsection:

- " (1) Notwithstanding any other provision of this section, the amount payable to any State under this section with respect to any quarter beginning after December 31, 1975, shall be reduced by 10 per centum of the amount determined with respect to such quarter under the preceding provisions of this section if such State is found by the Secretary not to be in compliance with section 1902(g)."

- Supra. Effective date. (c) The amendments made by this section shall (except as otherwise provided therein) become effective January 1, 1976.
- 42 USC 1396a note.

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UTILIZATION REVIEW ACTIVITIES

SEC. 112. (a)(1) Section 1861(w) of the Social Security Act is amended— 42 USC 1395x.

(A) by inserting "(1)" immediately after "(w)", and

(B) by adding at the end thereof the following new paragraph:

"(2) Utilization review activities conducted, in accordance with the requirements of the program established under part B of title XI of the Social Security Act with respect to services furnished by a hospital to patients insured under part A of this title or entitled to have payment made for such services under a State plan approved under title V or XIX, by a Professional Standards Review Organization designated for the area in which such hospital is located shall be deemed to have been conducted pursuant to arrangements between such hospital and such organization under which such hospital is obligated to pay to such organization, as a condition of receiving payment for hospital services so furnished under this part or under such a State plan, such amount as is reasonably incurred and requested (as determined under regulations of the Secretary) by such organization in conducting such review activities with respect to services furnished by such hospital to such patients."

42 USC 1320c.

42 USC 1395c.

42 USC 701,  
1396.

(2) Section 1815 of such Act is amended—

42 USC 1395g.

(A) by inserting "(a)" immediately after "SEC. 1815.", and

(B) by adding at the end thereof the following new subsection:

"(b) No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1861(w)(2), to have in effect an arrangement with a Professional Standards Review Organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this title for utilization review activities provided by a Professional Standards Review Organization pursuant to an arrangement or deemed arrangement with a hospital under section 1861(w)(2) shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable."

Payment to  
provider of  
services.  
Supra.

(c) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make such transfers of moneys between the funds, referred to in clauses (a), (b), and (c) of the preceding sentence, as may be appropriate to settle accounts between them in cases where expenses properly payable from the funds described in one such clause have been paid from funds described in another of such clauses."

42 USC 1320c-  
17.  
Transfer of  
funds.

(d) The amendments made by this section shall be effective with respect to utilization review activities conducted on and after the first day of the first month which begins more than 30 days after the date of enactment of this Act.

Effective date.  
42 USC 1395x  
note.

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## TITLE II—PROVISIONS RELATING TO FOOD STAMPS PROVIDED TO AFDC FAMILIES

### FOOD STAMP DISTRIBUTION TO AFDC FAMILIES

7 USC 2019  
note.  
7 USC 2019.

SEC. 201. Notwithstanding any other provision of law, the final date for compliance with regulations in implementation of section 10(e) (7) of the Food Stamp Act of 1964, as amended, may be extended until October 1, 1976.

## TITLE III—INTERNAL REVENUE CODE AMENDMENT

### CERTAIN IRRIGATION DAMS

26 USC 103.

SEC. 301. (a) Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

“(e) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of subsection (c) (4) (G) if—

“(1) substantially all of the stored water is contractually available for release from such dam for irrigation purposes, and

“(2) the water so released is available on reasonable demand to members of the general public.”

Effective date.  
26 USC 103  
note.

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.  
Approved December 31, 1975.

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### LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-626 (Comm. on Ways and Means).

SENATE REPORT No. 94-549 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 121 (1975):

Nov. 17, considered and passed House.

Dec. 17, considered and passed Senate, amended.

Dec. 18, 19, House concurred in Senate amendments with an amendment.

Dec. 19, Senate concurred in House amendment.



AMENDING TITLE XVIII OF THE SOCIAL SECURITY ACT

From the Report of the

COMMITTEE ON FINANCE  
UNITED STATES SENATE

Report 94-549, pp. 2-3, 10-12

December 12, 1975

From:

Summary of the bill, pp. 2-3

PROFESSIONAL STANDING REVIEW ORGANIZATIONS (PSRO)

AREA DESIGNATIONS

The committee amendment provides that in those States (1) which have been divided into more than one PSRO area, and (2) in which no conditional PSRO's have been designated, the Secretary would poll the physicians in each designated area as to their preference for a local or statewide PSRO. If a majority of physicians in each currently designated PSRO area in that State approved a statewide PSRO, the Secretary would redesignate that State as a single area.

PSRO DIRECT UTILIZATION REVIEW ACTIVITIES

The committee amendment also contains a provision aimed at equalizing the reimbursement for utilization review activities where they are carried out by a hospital under delegation from a PSRO or by the PSRO itself. Under current law, utilization review expenditures are reimbursable by medicare for delegated review. Under this provision, utilization review expenses of the PSRO in carrying out nondelegated review would also be reimbursable through medicare benefit payments.

From:

General explanation of the bill, pp. 10-12

PROFESSIONAL STANDARDS REVIEW ORGANIZATION AREA DESIGNATIONS

(Section 5 of the Bill)

Under present law, the Secretary of Health, Education, and Welfare is required to and has, in fact, designated geographic areas in the several States as "Professional Standards Review Areas." There are 203 such areas in the country. In more than one-half of these areas, physician-sponsored organizations have formally contracted with the Secretary as either designated PSRO's with operating responsibility (64 organizations as of this date) or planning PSRO's (56 as of this date).

There are, however, a number of States in each of which multiple PSRO areas have been designated, and in which no formal PSRO relationships have been established. It is the committee's understanding that the development of PSRO's in those States has, in large part, been inhibited by widespread physician concern over their inability to establish a single statewide PSRO rather than the presently required multiple PSRO's.

The committee amendment would, under certain circumstances, eliminate the barrier to designating a single statewide PSRO area in a number of States where multiple areas now obtain. The amendment requires the Secretary to conduct, as soon as possible, separate polls in each of the presently designated areas of a State with multiple areas if in no area of that State, as of the effective date of this act, has the Secretary designated and entered into an agreement with an organization as the Professional Standards Review Organization. As has been noted, the Secretary has so designated and entered into such agreements with more than 60 organizations thus far.

The physicians in each presently designated local area meeting the conditions described would be polled, on a confidential basis, as to whether they were willing to forego the local designation in favor of a statewide area. If in each presently designated local area a majority of the physicians responding opt for the statewide designation, then the Secretary would be required to redesignate and consolidate the multiple areas into a statewide area. Thus, if a majority of the physicians elect a change in every presently designated local area in a State, the Secretary would follow up with statewide designation. If, however, a majority of physicians in an area elect to retain the local designation then the present multiple area designations in that State would continue.

PSRO DIRECT UTILIZATION REVIEW ACTIVITIES

(Section 6 of the Bill)

Public Law 92-603 established Professional Standards Review Organizations (PSRO's) throughout the country. These organizations, consisting of practicing physicians in an area, are charged with reviewing the quality and necessity of health services provided under the medicare and medicaid programs.

The PSRO's may discharge their review responsibilities with respect to hospitals in two ways: first, they can delegate their review responsibilities to hospital review committees where the PSRO is satisfied as to the capacity of the hospital to conduct proper review (in which case the PSRO is charged with the responsibility to continuously monitor the effectiveness of the hospital review committee); alternatively, the PSRO's can carry out the review activities on their own in those cases and, to the extent that a hospital either cannot conduct satisfactory review or chooses that the PSRO perform the review for it.

Under present law, where the PSRO delegates review responsibility to a hospital committee, the costs of that review are reimbursed through Medicare and Medicaid benefit payments to the hospital since these costs are considered a part of the hospital benefit cost. However, where the PSRO does not delegate review to a hospital, the PSRO must bear the cost of the review out of its own administrative budget.

Since PSRO administrative budgets are often quite limited, the PSRO's in effect have an incentive to delegate review so that they will not have to bear the cost—conversely, they have a disincentive to perform review directly. The result of this may be inappropriate or premature delegations of review authority to hospitals which are not really competent or willing to carry out the review.

The committee amendment would allow the medicare benefit trust fund to pay not only for delegated review to the hospitals, but to also pay the PSRO through the hospital for nondelegated hospital review.

This would equalize reimbursement treatment of review activities. The payment in the case of nondelegated review would flow from the hospital to the PSRO following billing by the PSRO on a prospective or retroactive basis with the hospital then fully reimbursed for the total amount of the charge (without any requirement of allocation) by the intermediary for such payments under guidelines established by the Bureau of Health Insurance and Quality Assurance defining the amount and circumstances of such charges. The Federal agencies, and not the hospitals or intermediaries, would be responsible for assuring the appropriateness and reasonableness of PSRO charges for direct utilization review.

Further the committee anticipates that in order to completely eliminate any financial incentive either for or against the delegation of review responsibility and authority by a PSRO to a hospital, existing medicare policies of the Bureau of Health Insurance will be modified to provide that a separate cost center be established by a hospital to clearly identify the reasonable costs of required review activities. It is expected that for medicare and medicaid reimbursement purposes (whether such review be conducted under a delegation by a PSRO to a hospital review committee, or directly by the PSRO), 100 percent of the reasonable costs incurred in the reasonable review of medicare, medicaid, and material and child health patients admitted to the hospitals concerned shall be recognized as a direct cost of such programs without requirement of any apportionment of the review costs among patients of the institution for whom such costs had not been incurred.

Of course, in the case of the costs of any review and related activities which have customarily been undertaken as a routine aspect of medical staff privileges in a hospital any costs for such work (such as that of hospital tissue and formulary committees, etc.) are not intended to be compensated on other than an apportionment basis.

This amendment also provides for the transfer of funds for medicaid appropriations to the medicare trust fund to reimburse the trust fund for funds expended for PSRO nondelegated review of medicaid patients.

MEDICARE-MEDICAID ANTI-FRAUD AND  
ABUSE AMENDMENTS OF 1977

From the Report of the

COMMITTEE ON INTERSTATE AND  
FOREIGN COMMERCE

Report 95-393, Part II, pp. 55-68, p.75

July 12, 1977

From:  
Committee proposal, pp. 55-68

*Amendments Related to Professional Standards Review Organizations  
(Section 5)*

*Waiver of Other Review Requirements (Section 5(a))*

The committee's bill provides that where the Secretary finds a given Professional Standards Review Organization (PSRO) competent to perform required review functions, similar activities otherwise required by law would not apply, except to the extent specified by the Secretary.

Under present law, the Secretary is authorized to waive any or all of the review, certification, or similar activities otherwise required under the law where he finds, on the basis of substantial evidence of the effective performance of review and control activities by PSRO's, that the activity or activities are no longer needed for the provision of adequate review and control. The purpose of this provision was to avoid duplication of review functions. Current law does not specifically state that the waiver authority is applicable to conditionally designated organizations, although the language has been interpreted to permit such actions.

The bill would both clarify present law and simplify its application by providing that where the Secretary makes a formal determination that a given PSRO is competent to perform required review functions, the review, certification and similar activities otherwise required by law would not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such PSRO, except to the extent specified by the Secretary. A finding by the Secretary under this subsection could be made both with respect to conditionally designated and qualified PSRO's. The provision would not affect other provisions of existing law relating to determinations with respect to conditions for eligibility to or payment of benefits (as distinct from reviews or certifications of medical necessity).

*Modification of Requirements for Conditionally Designated PSRO's  
(Section 5(b))*

The committee's bill extends the time period for conditional designation of PSRO's and clarifies the language of present law pertaining to the duties and functions a PSRO must assume during this trial period.

Current law provides that each PSRO shall initially be designated on a trial basis for a period not to exceed two years. By the end of the



period, the organization shall be considered a qualified organization only if the Secretary finds that it is substantially carrying out in a satisfactory manner the functions required of a PSRO with respect to institutional services in its area. When the legislation was enacted, it was anticipated that conditionally designated organizations would be able to assume review responsibilities with respect to all institutional services within a two-year period. Implementation of the program has been slower than anticipated with the major focus to date on review of inpatient hospital services. A number of conditionally designated organizations have or are approaching the end of their two-year trial period. While many are effectively performing reviews of services, they are technically not eligible for continuation of their conditional status or designation as qualified organizations.

The bill modifies the conditional designation provision of present law to provide for a conditional period not to exceed 48 months. The Secretary would be authorized to extend this period for an additional 24 months if an organization has, for reasons beyond its control, been unable to satisfactorily perform all of its required functions. The committee expects that this extension of the conditional period would be authorized only in unusual circumstances.

The bill also clarifies the requirement of present law that PSRO's must assume responsibility for review of all institutional services (including ancillary services) during the conditional period. Additionally, the bill clarifies the requirement that PSRO's must be reviewing long-term institutional care services (subject to the provisions of section 5(d) which leave the responsibility for review of services in intermediate care facilities with the State medicaid agency unless the Secretary finds the State is not performing effective review).

#### *Review Requirements (Section 5(c))*

The committee's bill requires the Secretary to give priority to PSRO requests to review services provided in "shared health facilities"; mandates the development of ambulatory care review methodologies for use by PSRO's; requires a PSRO to undertake ambulatory care review not later than two years after it has achieved operational status; and modifies the language in current law pertaining to physicians excluded from participation in review activities.

Under current law, a PSRO is required to review only care provided by or in institutions. It may request authority to review other kinds of health services, and the Secretary may approve the request at his option. To date, little emphasis has been given to the assumption of review responsibility by PSRO's for other kinds of health care services.

The bill would require the Secretary to give priority to requests by PSRO's to review services in "shared health facilities" with the highest priority being assigned to requests from PSRO's located in areas with substantial numbers of such facilities. A "shared health facility" is defined as an arrangement meeting all of the following criteria:

- (1) Two or more practitioners practice their professions at a common physical location;
- (2) The practitioners share common space, services of supporting staff or equipment;
- (3) The practitioners have a person (who may himself be a practitioner), paid on a percentage or other basis clearly unrelated



to the value of the services provided, who either is in charge of or supervises substantial aspects of the operation or who makes available services of supporting staff who are not employees of such practitioners; and

(4) At least one of the practitioners receives from medicare, medicaid, and maternal and child health fee-for-service payments in excess of \$5,000 for one month or \$40,000 for 12 months.

The term "shared health facility" specifically excludes hospitals, skilled nursing facilities, home health agencies, federally approved health maintenance organizations, hospital cooperative shared services organizations meeting the requirements of section 501(e) of the Internal Revenue Code, or any public entities.

The definition of a "shared health facility" is designed to distinguish those types of ambulatory facilities (sometimes referred to as "Medicaid Mills") which are characterized by a high volume of services to medicaid patients (often of an excessive or unnecessary nature), and the payment of a percentage of the medicare and medicaid billings to the owner or manager of the facility, from legitimate group practice arrangements under which several practitioners render services at a common location. Since a shared health facility could evade the test of percentage arrangements, the Secretary has leeway to determine whether the payments to the owner or manager, while technically not a percentage of billings, are clearly unrelated to the value of the services provided by such person to the facility. By requiring a facility to meet all four criteria specified in the bill, it is expected that such legitimate arrangements among practitioners would be excluded from the definition. The Committee expects, therefore, that the Department will exercise judgment in applying this definition so as to assure that legitimate group practice arrangements are not inappropriately classified.

Recent congressional hearings and reports have documented widespread instances of fraud and abuse in certain types of ambulatory facilities which have come to be known as "Medicaid Mills." The definition of shared health facilities is designed to identify these specific types of arrangements in order to facilitate PSRO review of the services furnished by such facilities. Committee wishes to emphasize that a PSRO is not a fraud detection organization; its role is to render professional determinations as to the medical necessity and appropriateness of services. Thus, a PSRO will be expected, where it chooses to undertake review of services furnished by "shared health facilities," to review those services for the same purposes—to judge appropriateness and quality—that it would review services provided in other health care settings.

Under current law, PSRO's may request authority review ambulatory care services, i.e., those provided in clinics or doctors' offices. However, the committee notes that reliable ambulatory care review methodologies have not as yet been developed. The bill, therefore, requires the Secretary to develop, within two years, effective ambulatory care review methodologies for use by PSRO's. The bill further directs the Secretary, where he finds a PSRO capable of undertaking ambulatory care review, to require the organization to undertake such review not later than two years after it has achieved operational status. The Committee expects that in implementing this requirement, the Secretary

will exercise judgment with respect to the varying capacities of PSRO's and, where appropriate, will establish a reasonable classification of ambulatory care review activities for an organization to undertake. Such classification might include specific categories of services or specific aspects of various service categories. The committee further notes that "ambulatory care services" are those services not rendered by or in an institution. Institutional review, including review of services provided in hospital outpatient departments or emergency rooms, is a requirement of current law and must be conducted before an organization can achieve operational status.

Under current PSRO review provisions, a physician is precluded from reviewing health services provided to a patient if he was directly or indirectly involved in providing the services. Present law further precludes review by a physician of services furnished in any institution, organization, or agency if he or any member of his family has, directly or indirectly, any financial interest in such entity.

The bill would modify these restrictions to permit greater opportunity for physicians participation in PSRO review activities. Under the bill, a physician would not be permitted to review services for which he was directly responsible (rather than directly or indirectly responsible as in present law) or services in an institution in which he or a member of his family has a "significant" financial interest (rather than "any" financial interest, as in present law.) The committee expects that in implementing this provision, HEW will employ the same definition of "significant" financial interest as is currently used in administering medicare.

The bill further provides that arrangements with PSRO's for reimbursement of the costs of review activities are to be made in a manner similar to that provided for medicare intermediaries (which includes provision for advances of funds and payment of administrative costs).

#### *Conclusive Determinations for Payment (Section 5(d))*

The committee's bill provides that where a PSRO has been found competent by the Secretary and is performing specific review functions, medical determinations made in connection with such review shall be considered conclusive on those issues for purposes of payment. The bill provides a formal role for the States in the process of establishing and evaluating PSRO review of services provided through the medicaid program. The bill also precludes delegated review in skilled nursing facilities and provides that review of intermediate care facility services will be undertaken by a PSRO only if the Secretary finds that the State is not performing effective review in these facilities.

Under present law, medicare payments and the Federal share of medicaid payments may not generally be made for health care services which a PSRO, in the proper exercise of its duties, has determined to be medically unnecessary or inappropriate. However, the committee believes that it is necessary, in order to avoid the performance of disruptive duplicative reviews by medicare and medicaid agencies, to clarify the scope of the PSRO's authority and the role of the medicaid State agencies.

Accordingly, the bill provides that where a conditionally designed or a qualified PSRO has been found competent by the Secretary to

assume specific review responsibilities and is performing such reviews, a determination as to quality or necessity made in connection with such review would constitute the conclusive determination on those issues for purposes of payment. (Such determinations would be subject to the hearings and appeals provisions of present law.) Medicare fiscal intermediaries and State medicaid agencies would continue to be responsible for other types of reviews and determinations relating to program eligibility, coverage of services, audit, claims payment, fraud and abuse detection, and related activities.

The committee has received comments from a number of States expressing concern over the potential impact of PSRO determinations on State medicaid budgets. The committee has concluded that since substantial State monies are involved it is appropriate that they be given an opportunity to evaluate a PSRO's capability to efficiently and effectively perform review of medicaid services. The bill, therefore, makes provision for the participation of States in the PSRO designation process and in the ongoing monitoring of PSRO review activities.

The bill requires a PSRO to consult with the medicaid State agency in the development of its formal review plan (required as a condition for designation) and in any modification of the plan involving assumption of review responsibility for additional categories of services. The bill provides the States with an opportunity to review and comment on the proposed conditional designation of a PSRO, the change in designation status from conditional to operational, and the assumption by the PSRO of responsibility for long-term care and ambulatory care review. Before the Secretary designates a PSRO or substantially adds to its functions, he is required to take the State's views into account. If his decision differs from the course recommended by the State, he must notify the State of the reason for his decision and allow them additional time to provide further support for their views.

The bill provides that a PSRO's determination shall constitute a conclusive determination for purposes of payment under medicaid only if the PSRO has entered into a memorandum of understanding (approved by the Secretary) with the appropriate State medicaid agency. The purpose of this memorandum is to delineate the relationship between the PSRO and the State agency. The requirement for a memorandum of understanding may be waived only if the State indicates that it does not wish to enter into such an understanding or if the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the PSRO involved.

A State medicaid agency may request a PSRO to include in its memorandum of understanding a specification of review goals and methods (in addition to those required in the PSRO's formal review plan) for the performance of its required functions. If the State medicaid agency and the PSRO are unable to agree on the inclusion of such items, the Secretary would review the requested specification and require that it be included in the memorandum if he determines that the review goals and methods are consistent with titles XI and XIX of the act and do not impair the effectiveness and uniformity of the PSRO's review of health care services under medicare and medicaid. For example, a State might request that a PSRO emphasize the prevention of unnecessary Friday admissions of medicaid patients

for elective procedures not scheduled to be performed until Monday. Your committee notes that the PSRO's application of norms, criteria, and standards would not be affected by this provision; standards for quality, appropriateness and necessity of services would continue to be the same for both programs. If the PSRO found review of weekend admissions was appropriate, it would generally be applied to all patients whose care was reviewed by the PSRO.

The committee intends that the Secretary shall not deny a State agency request solely because the PSRO has not been utilizing such a requested method or goal for the medicare program or because the PSRO cannot apply the method or goal to the medicare program due to differences in the patient populations. Rather, the Committee intends that where differences in the patient populations do not preclude uniform review by the PSRO, the Secretary's decision shall be based on his determination as to whether the PSRO can effectively apply such review methods or goals to the review of services provided under both the medicare and medicaid programs in order to ensure that the uniformity of PSRO review under the Social Security Act can be maintained.

The committee intends that any review specified by the State agency which the PSRO performs in accordance with its memorandum of understanding with the agency and pursuant to its review authority until title XI would be fully federally funded. In addition, the bill provides regular Federal matching if a medicaid State agency contracts with a PSRO to undertake additional review responsibilities, provided the State agency formally requests it and the performance of such responsibilities is provided for in an approved medicaid plan amendment. For example, the State agency may request the PSRO to approve so-called administrative days, such as an additional day of hospital stay which may be required because there is no immediately available skilled nursing facility bed.

The bill also provides Federal financial participation to State medicaid agencies for the costs of monitoring the performance of review activities by PSRO's under State monitoring plans which have been approved by the Secretary. It is expected that the Secretary will develop criteria for approval of such plans and that they will not be approved where the proposed monitoring activities duplicate the purposes of PSRO review. The State medicaid agency may include in its plans for monitoring a specification of the performance criteria for judging PSRO effectiveness. Inclusion of such specifications in the State's monitoring plan is not mandated because it is believed that most States during the development and initial implementation of State monitoring of PSRO review will not have such performance criteria developed. However, at such time as the State agency intends to utilize performance criteria for judging PSRO review effectiveness, the Committee expects the agency to discuss the criteria with the PSRO and to amend the State's monitoring plan to include the agreed-upon criteria.

The bill authorizes the State agency to request suspension of the PSRO's authority to make conclusive determinations if in the course of its monitoring activities it develops reasonable documentation that the PSRO review determinations have caused an unreasonable and detrimental impact either on total State medicaid expenditures or on



the quality of care. Within thirty days of receipt of the documentation the Secretary is required to suspend all or part of the PSRO's conclusive determination authority under medicaid. (For example, he may suspend their review of long-term care services, but not hospital services. He may also take similar action with respect to PSRO determinations under medicare if he determines such action is appropriate.) During the suspension period the Secretary is required to conduct a reevaluation of the PSRO's capability to perform review activities and to inform the appropriate agencies, organizations, and congressional committees of any documentation submitted and actions taken.

The bill requires the Secretary to establish procedures and mechanisms governing his relationship to State agencies in connection with their respective responsibilities concerning memoranda of understanding, monitoring, and reevaluations. The Secretary is required to periodically consult with representatives of State agencies and PSRO's. Further, the appropriate State medicaid agency is permitted to be represented on any project assessments conducted by the Secretary. The committee intends that the procedures and mechanisms developed by the Secretary shall promote smooth working relationships between all parties involved and shall involve a minimum of disruption in the orderly implementation of the PSRO program. The committee further intends that State monitoring activities will become less intensive over time (particularly with respect to PSRO's which are no longer in conditional status) and will focus on problem areas which have been detected in the performance of PSRO review.

The committee is aware of the fact that as PSRO's begin to review services provided in institutional settings other than hospitals, different requirements may be appropriate. Accordingly, the bill prohibits delegated review in skilled nursing facilities since these facilities have generally had far less experience in conducting in-house review activities than hospitals.

(Generally, this prohibition against delegated review would apply only to skilled nursing facilities which were not distinct parts of hospitals or other institutions. If an SNF is a part of a hospital which has a delegation of review authority from a PSRO, it would be the Committee's intent that delegation of review for skilled nursing facility services provided in that institution would be allowed).

Further, PSRO review of care in intermediate care facilities and public institutions for the mentally retarded (services which are paid for only under the medicaid program) would only be undertaken where the Secretary determines that the State is not performing effective review of the quality and necessity of services provided in such facilities. If the Secretary does make such a finding, and the PSRO is required to carry out the review, the committee expects that the PSRO would not delegate review to the intermediate care facility, just as they are prohibited from such delegation to skilled nursing facilities.

#### *Clarification of Sanctions Provision (Section 5(e))*

Current law specifies those conditions under which the Secretary may, at the recommendation of a PSRO, withdraw a medical care provider's eligibility to participate in Social Security Act medical care programs where it is determined that it is not willing, or cannot,



carry out its obligations to order and provide only necessary care of acceptable quality.

The bill makes clear that the provision in question applies to any health care practitioner, or any hospital or other health care facility, agency, or organization which is subject to PSRO review.

*National Council (Section 5(f))*

The bill provides for staggered terms for members of the National Professional Standards Review Council.

Present law provides that the 11 members of the Council shall be appointed for three-year terms and may be eligible for reappointment. The bill would amend this provision. The general term for Council members would continue to be three years, except that for members appointed in 1979, four shall be appointed for a two-year term and three for a one-year term. All members would continue to be eligible for reappointment.

*National Council Report (Section 5(g))*

Section 5(g) would delete the requirement in present law for an annual report on its activities by the National Professional Standards Review Council and would require instead the submission by the Secretary of a detailed annual report on the PSRO program:

Under the new reporting requirement included in the bill, the Secretary would be required to submit substantially more information concerning the cost and operation of the PSRO program than has previously been required of the National Council. Accordingly, the bill would delete the requirement for the National Council report as duplicative and unnecessary.

*Exchange of Data and Information With Other Agencies (Section 5(h))*

The committee's bill would expand and clarify the circumstances under which the provision of data or information by PSRO's would not violate the confidentiality requirement of law.

Under present law, any data or information acquired by a PSRO in the exercise of its duties must be held in confidence and may not be disclosed to any person except (1) to the extent that may be necessary to carry out the purpose of the PSRO provisions, or (2) in such cases and under such circumstances as the Secretary shall be regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care. Interim regulations issued by the Department on December 3, 1976, provide for the disclosure of two types of information acquired by the PSRO:

1. Data and information acquired by the PSRO: (a) which has been published; (b) which has not been identified by the source as confidential; and (c) whose disclosures are not otherwise prohibited by law.

2. Summary statistics aggregated from the Uniform Hospital Discharge Data Set (UHDDS) to the extent that it is not identifiable to an individual patient or health care practitioner.

The bill would expand and clarify those circumstances under which the provision of data or information would not violate the confidentiality provisions to include: (1) provision of data or information by

the PSRO, on the basis of its finding as to evidence of fraud or abuse, to Federal or State agencies recognized by the Secretary as having responsibility for the identification or detection of fraud and abuse activities; such data and information may be provided at the request of the recognized agencies at the discretion of the PSRO; and (2) provision of aggregate statistical data to agencies having responsibility for health planning and related activities under Federal or State law. The data and information furnished to the planning agencies would be provided in the format and manner prescribed by the Secretary or agreed upon by the agencies and the PSRO. Such data and information would be in the form of aggregate statistical data on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished and the demographic characteristics of the population whose services are subject to review by the PSRO. However, the data would not identify any individual.

Data and information made available to Federal or State agencies recognized by the Secretary as having responsibility for identifying and investigating fraud and abuse may not be further disclosed except when the disclosure is made in the course of a legal, judicial, or administrative proceeding. Violation of this prohibition would result in application of the penalty specified in existing law.

The committee has included this provision to facilitate the exchange of data and information with other agencies while at the same time assuring that the confidentiality of patient records will not be violated. The committee has received information that PSRO's which have identified suspected cases or widespread patterns of fraud and abuse have been unable to make the information available to enforcement agencies. The committee also notes that the provision of aggregate statistical data to Federal and State planning agencies will enable those bodies to develop a more accurate picture of medical care patterns in their areas, facilitate planning for future resource needs, and prevent unnecessary duplicative data gathering activities.

The bill also includes a provision to protect patient records from subpoena or discovery proceedings in a civil suit. This provision, however, would not preclude the subpoena or discovery of originals or copies of the same documents in the possession of others.

#### *Legal Expenses (Section 5(i))*

The committee's bill provides for payment of legal fees in connection with the defense of suits brought against a PSRO related to the performance of its functions. The bill would authorize the Secretary to assume responsibility for legal fees incurred in connection with the defense of any suit, action, or proceeding brought against the PSRO or any of its members or employees related to the performance of its functions. While all PSRO's currently have liability insurance which covers such attorneys' fees, this provision would serve as an additional guarantee in the event such insurance is subsequently withdrawn.

#### *Payment of PSRO Expenses (Section 5(j))*

The committee's bill would clarify the intent of present law that payment for PSRO expenses is to be made from Federal funds.

Under present law, expenses incurred by PSRO's are payable from medicare trust funds and from funds appropriated to carry out the

other health care provisions of the Social Security Act. The bill would clarify that it is not intended that States or local governmental entities contribute toward these expenses, as they normally must do to receive Federal matching funds under title XIX.

*Annual Reports (Section 5(k))*

Current law does not require the preparation of a detailed report on the activities, cost, and impact of the PSRO program. The committee believes that this information is necessary to determine the status of program operations, to evaluate the progress of program implementation, and to assess the program's effectiveness.

The bill therefore requires the Secretary to submit annual reports to the Congress by April 1 of each year beginning in 1978 on the administration, impact, and cost of the PSRO program during the preceding fiscal year. The reports must include program data on each PSRO; institutions and practitioners whose services are subject to review; services determined by PSRO's not to meet standards; penalties and sanctions; total costs under titles V, XI, XVIII, and XIX in the implementation of all required review procedures; changes attributable to PSRO activities; progress in adopting and implementing ambulatory review methodologies; results of program evaluation activities; extent to which PSRO's are performing reviews for other private or governmental programs; and legislative recommendations.

*Confidentiality of Medical Records (Section 5(l))*

The committee's bill addresses the issue of confidentiality of medical records in two ways: (1) it prohibits disclosure to any Federal agent, officer or employee by a Professional Standards Review Organizations of any individually identifiable medical record relating to medical care that is not provided by or paid for by the Federal government (and similarly prohibits Federal access to such records), unless the disclosure or access is specifically authorized by the individual, and (2) it requires the Secretary of HEW, after taking into account the recommendations of the Privacy Protection Study Commission, to submit recommendations to the Congress within three months of the issuance of Privacy Commission report, pertaining to the privacy of patients' medical records, the circumstances under which records may be appropriately examined and the safeguards that need to be established with respect to such examinations and the disclosure of records.

Issues relating to safeguarding the privacy of individually identifiable medical records were of great concern to members of the committee throughout their consideration of H.R. 3. This area represents the one aspect of the bill in which the Committee on Ways and Means and the Committee on Interstate and Foreign Commerce have reported different substantive approaches to the House.

The Committee on Interstate and Foreign Commerce divided their consideration of the issue into two parts: first, what was appropriate policy concerning the access of Professional Standards Review Organizations to individually identifiable medical data, and any disclosure by them of it; and secondly, what was appropriate Federal policy concerning access by Federal employees to individually identifiable medical data, and what rules should govern disclosure in this circumstance.

On the narrower issue relating to PSRO access to individually

identifiable medical data, the committee considered several basic points:

(1) PSRO's must have access to individually identifiable medical data on patients whose care is paid for by Medicare, Medicaid, or the maternal and child health program in order to carry out their function as a group of physicians reviewing the appropriateness and necessity of care;

(2) a PSRO is subject under current law to a strict prohibition against disclosure of information acquired in the exercise of its duties, subject to penalties of a fine of up to \$1,000 and imprisonment for up to 6 months, or both.

(3) a PSRO is an organization made up of physicians. Review by a physician of the records of another physician's patients is not uncommon. Both the ethics of the profession and the existence of State statutes assure that the information physicians are privy to on an individual's medical condition is held in confidence.

(4) physicians participating in PSRO's are among those members of the physician community who are most highly experienced and motivated to perform reviews of the appropriateness of medical care: many of these groups of physicians have contracted to perform similar kinds of review with private programs and groups.

(5) programs to control the increasing costs of medical care will be more successful if peer review of the necessity of care becomes part of all health care programs, whether privately or publicly financed.

The committee was aware of the concern that review of individually identifiable medical data through private arrangements by physicians who are PSRO members might, because of the formal relationship of the PSRO to the Government, result in some Federal access to private patient records unless further protections were placed in the law. Therefore, the committee has strengthened the safeguards protecting the confidentiality of these patient records. The bill prohibits Federal officials from access to PSRO records of identifiable non-Federal funded patients without the express consent of these patients. Nor can PSRO's disclose such identifiable data to Federal officials without specific patient consent. This amendment would allow the PSRO's to perform review of non-Federal patients, if the organization's members choose to do so, while protecting the information from Federal agents.

The committee believes that PSRO's should not be discouraged from performing review of private patients, nor should the physicians of a PSRO be subject to restrictions not otherwise placed on comparable review bodies. Such PSRO review is supportive of efforts for hospital cost containment. These cost containment provisions cut across all patients and not just those whose services are reimbursed from Federal funds. Additionally, there are currently States, such as Connecticut, which require by Law PSRO review of all hospital patients. Many major companies, unions, and health insurers have contracted with or are now negotiating contracts with PSRO's to perform review in the anticipation of reducing unnecessary utilization and costs. The amendment will allow this development. The committee is concerned that the amendment reported by the Ways and Means Committee, how-



ever, would tend to obstruct review by PSRO's of non-Federally financed patients by requiring specific, detailed and time limited patient consent which is not required for any other review body. The PSRO would continue to be governed by any applicable State laws governing access and disclosure, of course, just as other review groups would be.

In regard to the broader issue of access by Federal employees, agents or officers to individually identifiable medical data, the committee studied carefully the provision banning access to these records that was adopted by the Ways and Means Committee. This committee shared with the members of that committee a strong concern for the right of the patient to privacy. We were also concerned, however, that vital activities of the Government to protect the health and safety of the public should not be impaired unnecessarily.

Because of the importance of the issue, the Subcommittee on Health and the Environment of the committee reopened H.R. 3 for consideration after it had initially been reported to the full committee, and received testimony on this issue from representatives of HEW, the Department of Defense, the Consumer Product Safety Commission, and the Environmental Protection Agency, among others. The committee is including a transcript of the testimony of these witnesses in the appendix of this report, since it was received too late in the process to be included in the hearing record. Also included in the appendix are the communications that were received from the Department of Health, Education and Welfare and the Office of Management and Budget on this issue. This testimony, and numerous communications from respected medical care professionals from the Mayo Clinic, from various schools of public health, from cancer research centers, and from persons who are active in the field of environment and occupational health, from many agencies of the Executive Branch, and others, convinced the committee that balancing concerns of privacy versus concerns for protection of the public health were exceedingly complex and required extensive and detailed examination to assure that damaging effects would not unintentionally be the result of any language adopted.

The committee reluctantly reached the conclusion that the amendment adopted by the Ways and Means Committee would seriously undermine existing critical public health, cancer research, and environmental and occupational safety programs, and, in some instances could even preclude necessary action in life threatening situations.

A few of the vital program activities which would be significantly altered, if not terminated, by this amendment, include:

1. *Epidemic investigation.*—Frequently numerous records must be reviewed rapidly: individuals at risk identified, found, and offered appropriate protective measures or treatment; and community control programs planned. Recent examples include the hundreds of potential contacts to Legionnaire's disease; St. Louis Encephalitis epidemics in four Southeastern States in 1975; and a nationwide exposure of patients to bacterially contaminated intravenous fluids.

2. *Epidemiologic research.*—Especially that related to the cause and course of illness over a long period of time. Again, individuals who at some past point in time may have been exposed to a toxic or carcinogenic agent, must be identified, found, examined, and treated if necessary. Recent examples include studies linking the use of DES



in pregnant women to vaginal cancer in their daughters; vinyl chloride work exposure to an increased risk of liver cancer; and x-ray treatment two or three decades ago to an increased risk of thyroid cancer.

3. *Communicable Disease Control*.—Even such important ongoing programs as immunization and venereal disease control would be affected. In immunization programs it is often necessary to review a child's record to see what vaccines may be needed, not only routinely, but in the face of an epidemic control effort. Penicillin resistant gonorrhea, a major new VD threat to this country, can only be controlled by identifying and treating all exposed individuals before they can transmit this organism to others.

4. *Laboratory records*.—Certain findings, which may result from even routine testing, such as evidence of hepatitis, syphilis, and typhoid require immediate identification and follow-up not only for the protection of the individual, but the public as well.

5. *Unpredictable events*.—Examples include the recent life threatening situation of a young boy with Lasa Fever, where the only way to prevent his death was to identify the very small number of travellers to Africa who had Lasa Fever and who could provide protection to the child on a few hours notice. Another recent example is that of Guillain-Barre syndrome associated with swin flu vaccine. All known cases of GB in the nation had to be quickly identified, seen, and vaccine history established so that a scientifically valid decision could be made as to the possible relation between immunization and that syndrome.

6. Other important health activities including the monitoring of new drug research by FDA.

These are only some examples. Often these activities are typified by a need to examine individual records in order to find individuals who received certain treatments or exhibited certain symptoms. Only after these individuals are identified can they be located and their consent for further study be obtained. Only after they have been identified and located can they make a judgment which is truly informed consent concerning further access to medical information about them.

The issue of individual protection is, of course, an extremely important one. It was for this reason that the Congress established a Privacy Protection Study Commission two years ago to study the full implications of this problem. Their report is to be issued on July 12. The committee has been informed that the Report includes a detailed series of recommendations which will safeguard privacy with respect to medical records, but not cripple research and critical public health activities by an inappropriate and even unsafe prohibition of necessary access. Translating this Report into legislation will require careful deliberation and time-consuming work. Further, the members of the Congress and the general public should have the assurance that the legislation that is developed has been offered for review and comment by the public. It is for this reason that the committee has included in its bill a requirement that the Secretary submit to the appropriate congressional committees, within three months of the issuance of the final report of the Privacy Protection Study Commission, a report and legislative recommendations for appropriate procedures to maintain the confidentiality of all individually identifiable medical records, and to pro-

vide for appropriate safeguards against unwarranted inspection or disclosure of such records.

*Medical Officers (Section 5(m))*

The bill would include medical officers in American Samoa, the Northern Mariana Islands and the Trust Territory of the Pacific Islands in the PSRO program. In these areas medical officers rather than doctors of medicine provide medical care. The bill would therefore permit medical officers licensed to practice medicine in these localities to participate in the PSRO program. These individuals may not, however, serve on the National Council or make any final determinations with respect to medical necessity or appropriateness of care provided by a duly licensed doctor of medicine or osteopathy.

*Payment for Review of Part B Services Provided by Hospitals (Section 5(n))*

Public Law 94-182, enacted on December 31, 1975, included an amendment to the medicare program which was designed to equalize reimbursement for PSRO hospital review activities whether such review was carried out by a hospital under delegation from a PSRO or by the PSRO itself. Previously, only delegated review activities could be funded out of the medicare trust funds. Under the new law, PSRO expenses in carrying out nondelegated review for hospital services covered under medicare part A or medicaid or the maternal and child health program would also be reimbursed through this mechanism. The law did not, however, provide for similar funding for PSRO review of hospital services covered under medicare part B.

Accordingly, the bill corrects this oversight by providing that funding for delegated review activities for services provided by a hospital which are covered under medicare part B shall be made from the medicare trust funds.

*Statewide Councils (Section 5(o))*

The bill extends the protection currently provided to members and employees of a PSRO from criminal prosecution or civil liability when carrying out PSRO functions to members and employees of Statewide Professional Standards Review Councils.

From:  
Committee proposal, p. 75

*Abolition of Program Review Teams Under Medicare (Section 13)*

The bill repeals the provisions in current law relating to program review teams.

The Social Security Amendments of 1972 included a provision authorizing the Secretary to suspend or terminate medicare payments to a supplier of services found to have abused the program. In the case of such a suspension or termination, Federal participation was also to be withheld for medicaid payments made in behalf of such supplier. This provision was included to permit HEW to bar future payments to suppliers who have made a practice of furnishing inferior or harmful supplies or services, engaging in fraudulent activities, or consistently overcharging for their services.

To assist him in making determinations under this section, the Secretary was required to establish program review teams in each State. These professionally-based bodies were to advise the Secretary concerning such matters as whether excessive, harmful, or grossly inferior care is being rendered to patients. The functions of program review teams relating to the review of the quality and appropriateness of services are essentially duplicative of the functions required to be performed by PSRO's.

The bill therefore deletes the requirements in current law pertaining to the establishment and responsibilities of program review teams with the expectation that the appropriate PSRO will instead be available to advise the Secretary in cases that require the application of professional medical judgment.

MEDICARE-MEDICAID ANTI-FRAUD AND  
ABUSE AMENDMENTS OF 1977

From the Report of the

COMMITTEE ON FINANCE  
UNITED STATES SENATE

Report 95-453, pp. 3-5, 14-25, 32

September 26, 1977

From:

Summary of the bill, pp. 3-5

*Professional Standards Review*

The bill includes several provisions designed to clarify the nature and scope of PSRO review responsibilities, to enhance the capacity of PSRO's to perform reviews of the necessity and appropriateness of services more effectively, and to improve the administration and coordination of review activities so as to assure that program funds are properly expended. Thus, the bill provides:

(1) for the termination of other duplicative review activities when the Secretary determines that a PSRO is competent to perform its review responsibilities; that the determinations of PSRO's so recognized by the Secretary with respect to the necessity and appropriateness of care are conclusive for purposes of program payment; and that the role of the State in the process of establishing and evaluating PSRO review of services provided through the medicaid program will be increased and made more specific (Section 5(a) and 5(d));

(2) for the establishment of demonstration projects for the purpose of evaluating the effectiveness of PSRO reviews compared to alternative State review methods. The bill authorizes the establishment of such projects in States which had operating onsite State evaluation systems in place on August 5, 1977, and which make application to the Secretary prior to April 1, 1978. The purpose of the projects will be to evaluate the effectiveness, both in terms of the quality and appropriateness of medical care as well as the impact on State budgets, of PSRO hospital review compared to alternative State hospital review systems. Demonstration projects would be conducted in PSRO areas which are

representative of a State's medicaid population and comprise a significant proportion of medicaid patient days (Section 24) ;

(3) that a PSRO may be conditionally designated for a period not to exceed 48 months (with authority for the Secretary to extend the period for an additional 24 months where warranted by unusual circumstances) ; and that PSRO's must assume review responsibilities for institutional services during this period (Section 5(b)) ;

(4) that the Secretary shall require a PSRO, where he finds it is capable of undertaking ambulatory care review, to undertake such review no later than 2 years after it becomes fully operational (but not during such organization's conditional phase), and to give priority to requests by PSRO's to review services in "shared health facilities" (Section 5(c)) ;

(5) that the Federal Government may assume the defense costs incurred by a PSRO in a liability suit related to the performance of its functions (Section 5(i)) ;

(6) for the disclosure of information with respect to evidence of fraud to designated Federal and State law enforcement agencies (with a prohibition against access to PSRO records in the case of subpoena or discovery proceedings in a civil action), and for the disclosure of aggregate statistical data to Federal and State health planning agencies (Section 5(h)) ;

(7) for the annual submission to the Congress by the Secretary of a comprehensive report on the administration, cost, and impact of the PSRO program (Section 5(k)) ;

(8) for the modification of current law provisions pertaining to payment for institutional services after a PSRO has determined that such services are no longer required. The current three day grace period would be reduced to one, with the PSRO permitted to authorize up to 2 additional days on a case-by-case exception basis where the facts in the case indicate that the additional time is needed to arrange for the necessary postdischarge care (Section 22) ;

(9) to amend the Internal Revenue Code to specifically include PSRO's as organizations eligible for section 501(c)(3) tax status (Section 27) ; and

(10) for several clarifying administrative and technical changes designed to enhance a PSRO's operational capacity (Section 5).

#### *Administrative Reform*

1. The bill requires the Secretary to establish for each of the different types of health services institutions a uniform system for the reporting of such items as cost of operation, volume of services, rates, capital assets and bill data. This reporting system would be mandated for use by medicare and medicaid providers and such use would be phased in by type of provider. (Section 19)

2. The bill repeals the program review team provisions of present law. The functions formerly performed by such teams with respect to the quality and utilization of services will be performed by Professional Standards Review Organizations. (Section 13)

3. The bill would encourage each State to establish an office separate from the medicaid program agency to prepare and prosecute cases of



suspected fraud and abuse in the program by providing for 100 percent Federal matching funds in fiscal year 1978, 90 percent in fiscal year 1979 and 75 percent in fiscal year 1980 for expenditures to establish and operate State medicaid fraud control units. The bill also authorizes the Secretary to arrange for demonstration projects designed to develop improved programs for detection, investigation, and prosecution of fraud and abuse. (Section 17)

4. The bill requires States to make provision in their State medicaid plan for claims payment procedures which ensure that 95 percent of the bills submitted by eligible noninstitutionally-based providers will be reimbursed within 30 days, and 99 percent within 90 days. The State would not be cited for noncompliance if the Secretary found the State was acting in good faith to achieve this goal. (Section 2)

5. The bill directs the Comptroller General to conduct a comprehensive review of the administrative structure for the processing of medicare claims. (Section 12)

6. The bill would prohibit the Secretary from refusing to enter into an agreement with a nominated intermediary under medicare solely because of the fact that such intermediary does not operate regionally or nationally. (Section 14)

7. The bill establishes a medical support program under which medicaid applicants and recipients may be required by a State to assign their rights to medical support or indemnification to the State. Incentives would be provided for localities to make collections for States and for States to secure collections in behalf of other States. (Section 11)

8. The bill requires that as a condition for participation in the medicaid and medicare programs, a skilled nursing or intermediate care facility must establish and maintain a system to assure the proper accounting of personal patient funds. The system must provide for separate and discrete accounting for each patient with a complete accounting of income and expenditures so as to preclude the intermingling of other funds with patient funds. (Section 21)

From:

General explanation of the bill, pp. 14-25

*Amendments Related to Professional Standards Review Organizations  
(Section 5)*

*Waiver of Other Review Requirements (Section 5(a))*

The committee's bill provides that where the Secretary finds a given Professional Standards Review Organization (PSRO) competent to perform required review functions, similar activities otherwise required by law would not apply, except to the extent specified by the Secretary.

Under present law, the Secretary is authorized to waive any or all of the review, certification, or similar activities otherwise required under the law where he finds, on the basis of substantial evidence of the effective performance of review and control activities by PSRO's, that the activity or activities are no longer needed for the provision of adequate review and control. The purpose of this provision was to avoid duplication of review functions. Current law does not specifically state that the waiver authority is applicable to conditionally designated organizations, although the language has been interpreted to permit such actions.

The bill would both clarify present law and simplify its application by providing that where the Secretary makes a formal determination that a given PSRO is competent to perform required review functions, the review, certification and similar activities otherwise required by law would not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such PSRO, except to the extent specified by the Secretary. A finding by the Secretary under this subsection could be made both with respect to conditionally designated and qualified PSRO's. The provision would not affect other provisions of existing law relating to determinations with respect to conditions for eligibility to or payment of benefits (as distinct from reviews or certifications of medical necessity).

The amendments made by this subsection would be effective upon enactment.

*Modification of Requirements for Conditionally Designated PSRO's  
(Section 5(b))*

The committee's bill extends the time period for conditional designation of PSRO's and clarifies the language of present law pertaining to the duties and functions a PSRO must assume during this trial period.

Current law provides that each PSRO shall initially be designated on a trial basis for a period not to exceed 2 years. By the end of the

period, the organization shall be considered a qualified organization only if the Secretary finds that it is substantially carrying out in a satisfactory manner the functions required of a PSRO with respect to institutional services in its area. When the legislation was enacted, it was anticipated that conditionally designated organizations would be able to assume review responsibilities with respect to all institutional services within a 2-year period. Implementation of the program has been slower than anticipated with the major focus to date on review of inpatient hospital services. A number of conditionally designated organizations have or are approaching the end of their 2-year trial period. While many are effectively performing reviews of services, they are technically not eligible for continuation of their conditional status or designation as qualified organizations.

The bill modifies the conditional designation provision of present law to provide for a conditional period not to exceed 48 months. The Secretary would be authorized to extend this period for an additional 24 months if an organization has, for reasons beyond its control, been unable to satisfactorily perform all of its required functions. The committee expects that this extension of the conditional period would be authorized only in unusual circumstances.

The bill also clarifies the requirement of present law that PSRO's must assume responsibility for review of all institutional services (including ancillary services) during the conditional period. Additionally, the bill clarifies the requirement that PSRO's must be reviewing long-term institutional care services (subject to the provisions of section 5(d) which leave the responsibility for review of services in an intermediate care facility where such a facility is not also a skilled nursing facility with the State medicaid agency unless the Secretary finds the State is not performing effective review).

The amendments made by this subsection would be effective upon enactment.

#### *Review Requirements (Section 5(c))*

The committee's bill requires the Secretary to give priority to PSRO requests to review services provided in "shared health facilities"; requires a PSRO to undertake ambulatory care review not later than 2 years after it has achieved operational status (but the Secretary may not require a conditional PSRO to undertake such ambulatory care review); and modifies the language in current law pertaining to physicians excluded from participation in review activities.

Under current law, a PSRO is required to review only care provided by or in institutions. It may request authority to review other kinds of health services, and the Secretary may approve the request at his option. To date, little emphasis has been given to the assumption of review responsibility by PSRO's for other kinds of health care services.

The bill would require the Secretary to give priority to requests by PSRO's to review services in "shared health facilities" with the highest priority being assigned to requests from PSRO's located in areas with substantial numbers of such facilities. A "shared health facility" is defined as an arrangement meeting all of the following criteria:

- (1) Two or more practitioners practice their professions at a common physical location;

(2) The practitioners share common space, services of supporting staff or equipment;

(3) The practitioners have a person (who may himself be a practitioner), paid on a percentage or other basis clearly unrelated to the value of the services provided, who either is in charge of or supervises substantial aspects of the operation or who makes available services of supporting staff who are not employees of such practitioners; and

(4) At least one of the practitioners receives from medicare, medicaid, and maternal and child health fee-for-service payments in excess of \$5,000 for one month or \$40,000 for 12 months.

The term "shared health facility" specifically excludes hospitals, skilled nursing facilities, home health agencies, federally approved health maintenance organizations, hospital cooperative shared services organizations meeting the requirements of section 501(e) of the Internal Revenue Code, or any public entities.

The definition of a "shared health facility" is designed to distinguish those types of ambulatory facilities (sometimes referred to as "Medicaid Mills") which are characterized by a high volume of services to medicaid patients (often of an excessive or unnecessary nature), and the payment of a percentage of the medicare and medicaid billings to the owner or manager of the facility, from legitimate group practice arrangements under which several practitioners render services at a common location. Since a shared health facility could evade the test of percentage arrangements, the Secretary has leeway to determine whether the payments to the owner or manager, while technically not a percentage of billings, are clearly unrelated to the value of the services provided by such person to the facility. By requiring a facility to meet all four criteria specified in the bill, it is expected that such legitimate arrangements among practitioners would be excluded from the definition. The committee expects, therefore, that the Department will exercise judgment in applying this definition so as to assure that legitimate group practice arrangements are not inappropriately classified.

Recent congressional hearings and reports have documented widespread instances of fraud and abuse in certain types of ambulatory facilities which have come to be known as Medicaid Mills. The definition of shared health facilities is designed to identify these specific types of arrangements in order to facilitate PSRO review of the services furnished by such facilities. Committee wishes to emphasize that a PSRO is not a fraud detection organization; its role is to render professional determinations as to the medical necessity and appropriateness of services. Thus, a PSRO will be expected, where it chooses to undertake review of services furnished by "shared health facilities," to review those services for the same purposes—to judge appropriateness and quality—that it would review services provided in other health care settings.

Under current law, PSRO's may request authority to review ambulatory care services, i.e., those provided in clinics or doctors' offices, however, to date, little emphasis has been given to this type of review. The committee bill would require the Secretary to approve a request by a PSRO (whether under conditional or operational status) to undertake ambulatory review if the Secretary finds it capable of performing this function. The bill further directs the Secretary, where he



finds an operational PSRO (not a conditional PSRO) capable, to require such organization to undertake ambulatory review not later than 2 years after it has achieved operational status. The committee expects that in implementing this requirement, the Secretary will exercise judgment with respect to the varying capacities of PSRO's and, where appropriate, will establish a reasonable classification of ambulatory care review activities for an organization to undertake. Such classification might include specific categories of services or specific aspects of various service categories. The committee further notes that "ambulatory care services" are those services not rendered by or in an institution. Institutional review, including review of services provided in hospital outpatient departments or emergency rooms, is a requirement of current law and must be conducted before an organization can achieve operational status.

Under current PSRO review provisions, a physician is precluded from reviewing health services provided to a patient if he was directly or indirectly involved in providing the services. Present law further precludes review by a physician of services furnished in any institution, organization, or agency if he or any member of his family has, directly or indirectly, any financial interest in such entity.

The bill would modify these restrictions to permit greater opportunity for physicians participation in PSRO review activities. Under the bill, a physician would not be permitted to review services for which he was directly responsible (rather than directly or indirectly responsible as in present law) or services in an institution in which he or a member of his family has a "significant" financial interest (rather than "any" financial interest, as in present law). The committee expects that in implementing this provision, HEW will employ the same definition of "significant" financial interest as is currently used in administering medicare.

The bill further clarifies that the contractual relationship between the Government and a PSRO is one of assistance rather than procurement. The major thrust of an agreement with a PSRO is not the procurement of services but rather a determination by the Secretary that the PSRO is authorized to carry out the functions prescribed by law. The fiscal aspects of the agreement are intended as assistance to the PSRO in the performance of its functions. The term "assistance agreement" is intended to permit the flexibility which an assistance arrangement allows rather than to require the procurement contract approach in reimbursing PSRO's for carrying out the functions vested in them by statute pursuant to a designation by the Secretary.

The amendments made by this subsection would be effective upon enactment.

#### *Conclusive Determinations for Payment (Section 5(d))*

The committee's bill provides that where a PSRO has been found competent by the Secretary and is performing specific review functions, medical determinations made in connection with such review shall be considered conclusive on those issues for purposes of payment. The bill provides a formal role for the States in the process of establishing and evaluating PSRO review of services provided through the medicaid program;



The bill generally precludes delegated review in skilled nursing facilities and provides that review of services provided in intermediate care facilities (which are not also skilled nursing facilities) will be undertaken by a PSRO only if the Secretary finds that the State is not performing effective review in these facilities.

Under present law, medicare payments and the Federal share of medicaid payments may not generally be made for health care services which a PSRO, in the proper exercise of its duties, has determined to be medically unnecessary or inappropriate. However, the committee believes that it is necessary, in order to avoid the performance of disruptive duplicative reviews by medicare and medicaid agencies, to clarify the scope of the PSRO's authority and the role of the medicaid State agencies.

Accordingly, the bill provides that where a conditionally designed or a qualified PSRO has been found competent by the Secretary to assume specific review responsibilities and is performing such reviews, a determination as to quality or necessity made in connection with such review would constitute the conclusive determination on those issues for purposes of payment. (Such determinations would be subject to the hearings and appeals provisions of present law.) Medicare fiscal intermediaries and State medicaid agencies would continue to be responsible for other types of reviews and determinations relating to program eligibility, coverage of services, audit, claims payment, fraud and abuse detection, and related activities.

The committee has received comments from a number of States expressing concern over the potential impact of PSRO determinations on State medicaid budgets. The committee has concluded that since substantial State monies are involved it is appropriate that they be given an opportunity to evaluate a PSRO's capability to efficiently and effectively perform review of medicaid services. The bill, therefore, makes provision for the participation of States in the PSRO designation process and in the ongoing monitoring of PSRO review activities.

The bill requires a PSRO to consult with the medicaid State agency in the development of its formal review plan (required as a condition for designation) and in any modification of the plan involving assumption of review responsibility for additional categories of services. The bill provides the States with an opportunity to review and comment on the proposed conditional designation of a PSRO, the change in designation status from conditional to operational, and the assumption by the PSRO of responsibility for long-term care and ambulatory care review. Before the Secretary designates a PSRO or substantially adds to its functions, he is required to take the State's views into account. If his decision differs from the course recommended by the State, he must notify the State of the reason for his decision and allow it additional time to provide further support for its views.

The bill provides that a PSRO's determination shall constitute a conclusive determination for purposes of payment under medicaid only if the PSRO has entered into a memorandum of understanding (approved by the Secretary) with the appropriate State medicaid agency. The purpose of this memorandum is to delineate the relationship between the PSRO and the State agency. The requirement for a memorandum of understanding may be waived only if the State

indicates that it does not wish to enter into such an understanding or if the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the PSRO involved.

A State medicaid agency may request a PSRO to include in its memorandum of understanding a specification of review goals and methods (in addition to those required in the PSRO's formal review plan) for the performance of its required functions. If the State medicaid agency and the PSRO are unable to agree on the inclusion of such items, the Secretary would review the requested specification and require that it be included in the memorandum if he determines that the review goals and methods are consistent with titles XI and XIX of the act and do not impair the effectiveness and uniformity of aid. For example, a State might request that a PSRO emphasize the the PSRO's review of health care services under medicare and medic-prevention of unnecessary Friday admissions of medicaid patients for elective procedures not scheduled to be performed until Monday. Your committee notes that the PSRO's application of norms, criteria, and standards would not be affected by this provision; standards for quality, appropriateness and necessity of services would continue to be the same for both programs. If the PSRO found review of weekend admissions was appropriate, it would generally be applied to all patients whose care was reviewed by the PSRO.

The committee intends that the Secretary shall not deny a State agency request solely because the PSRO has not been utilizing such a requested method or goal for the medicare program or because the PSRO cannot apply the method or goal to the medicare program due to differences in the patient populations. Rather, the committee intends that where differences in the patient populations do not preclude uniform review by the PSRO, the Secretary's decision shall be based on his determination as to whether the PSRO can effectively apply such review methods or goals to the review of services provided under both the medicare and medicaid programs in order to ensure that the uniformity of PSRO review under the Social Security Act can be maintained.

The committee intends that any review specified by the State agency which the PSRO performs in accordance with its memorandum of understanding with the agency and pursuant to its review authority under title XI would be fully federally funded. In addition, the bill provides regular Federal matching if a medicaid State agency contracts with a PSRO to undertake additional review responsibilities, provided the State agency formally requests it and the performance of such responsibilities is provided for in an approved medicaid plan amendment. For example, the State agency may request the PSRO to approve so-called administrative days, such as an additional day of hospital stay which may be required because there is no immediately available skilled nursing facility bed.

The bill also provides Federal financial participation to State medicaid agencies for the costs of monitoring the performance of review activities by PSRO's under State monitoring plans which have been approved by the Secretary. It is expected that the Secretary will develop criteria for approval of such plans and that they will not be approved where the proposed monitoring activities duplicate the purposes of PSRO review. The State medicaid agency may include in its

plans for monitoring a specification of the performance criteria for judging PSRO effectiveness. Inclusion of such specifications in the State's monitoring plan is not mandated because it is believed that most States during the development and initial implementation of State monitoring of PSRO review will not have such performance criteria developed. However, at such time as the State agency intends to utilize performance criteria for judging PSRO review effectiveness, the committee expects the agency to discuss the criteria with the PSRO and to amend the State's monitoring plan to include the agreed-upon criteria.

The bill authorizes the State agency to request suspension of the PSRO's authority to make conclusive determinations if in the course of its monitoring activities it develops reasonable documentation that the PSRO review determinations are not consistent with quality and appropriateness of medical care and services and have caused an unreasonable and detrimental impact on total State medicaid expenditures. The Secretary is required to determine the reasonableness of the State's complaint within 30 days of receipt of the documentation. Upon a finding of reasonableness, the Secretary may suspend all or part of the PSRO's conclusive determination authority under medicaid. (For example, he may suspend its review of long-term care services, but not hospital services. He may also take similar action with respect to PSRO determinations under medicare if he determines such action is appropriate.) The committee expects that where the substance of a State's complaint can be and is promptly corrected a suspension action would not be taken. The committee bill further provides that the Secretary may suspend immediately all or part of a PSRO's conclusive determination authority if he makes his own finding that such entity is not performing its functions in a reasonable and appropriate manner. Any suspension actions taken by the Secretary (either in response to a State's complaint or as a result of his own evaluation) or any determination by the Secretary that a suspension is not in order shall not be subject to judicial review. During any suspension period the Secretary is required to conduct a reevaluation of the PSRO's capability to perform review activities and to inform the appropriate agencies, organizations, and congressional committees of any documentation submitted and actions taken.

The bill requires the Secretary to establish procedures and mechanisms governing his relationship to State agencies in connection with their respective responsibilities concerning memoranda of understanding, monitoring, and reevaluations. The Secretary is required to periodically consult with representatives of State agencies and PSRO's. Further, the appropriate State medicaid agency is permitted to be represented on any project assessments conducted by the Secretary. The committee intends that the procedures and mechanisms developed by the Secretary shall promote smooth working relationships between all parties involved and shall involve a minimum of disruption in the orderly implementation of the PSRO program. The committee further intends that State monitoring activities will become less intensive over time (particularly with respect to PSRO's which are no longer in conditional status) and will focus on problem areas which have been detected in the performance of PSRO review.

The committee is aware of the fact that as PSRO's begin to review services provided in institutional settings other than hospitals, different requirements may be appropriate. Accordingly, the bill generally prohibits delegated review in skilled nursing facilities since these facilities have generally had far less experience in conducting in-house review activities than hospitals. This prohibition would not be applicable in cases where a skilled nursing facility is a distinct part of a hospital. The committee bill specifies that PSRO-delegated review to a hospital also encompasses an attached skilled nursing or intermediate care facility.

The committee bill further provides that PSRO's shall have responsibility for the review of services provided in an intermediate care facility where such facility is also a skilled nursing facility. PSRO review of care in other intermediate care facilities and public institutions for the mentally retarded (services which are paid for only under the medicaid program) would only be undertaken where the Secretary determines that the State is not performing effective review of the quality and necessity of services provided in such facilities. If the Secretary does make such a finding, and the PSRO is required to carry out the review, the committee expects that the PSRO would not delegate review to the intermediate care facility, just as they are prohibited from such delegation to skilled nursing facilities.

The amendments made by this subsection would be effective upon enactment.

#### *Clarification of Sanctions Provision (Section 5(e))*

Current law specifies those conditions under which the Secretary may, at the recommendation of a PSRO, withdraw a medical care provider's eligibility to participate in Social Security Act medical care programs where it is determined that it is not willing, or cannot, carry out its obligations to order and provide only necessary care of acceptable quality.

The committee bill makes clear that the provision in question applies to any health care practitioner, or any hospital or other health care facility, agency, or organization which is subject to PSRO review.

The amendment made by this subsection would be effective upon enactment.

#### *National Council (Section 5(f))*

The bill provides for staggered terms for members of the National Professional Standards Review Council.

Present law provides that the 11 members of the Council shall be appointed for 3-year terms and may be eligible for reappointment. The bill would amend this provision. The general term for Council members would continue to be 3 years, except that for members appointed in 1977, four shall be appointed for a 2-year term and three for a 1-year term. All members would continue to be eligible for reappointment.

The amendment made by this subsection would be effective upon enactment.

#### *National Council Report (Section 5(g))*

The committee bill would delete the requirement in present law for an annual report on its activities by the National Professional Stand-



ards Review Council and would require instead the submission by the Secretary of a detailed annual report on the PSRO program.

Under the new reporting requirement included in the bill, the Secretary would be required to submit substantially more information concerning the cost and operation of the PSRO program than has previously been required of the National Council. Accordingly, the bill would delete the requirement for the National Council report as duplicative and unnecessary.

The amendment made by this subsection would be effective upon enactment.

*Exchange of Data and Information With Other Agencies (Section 5(h))*

The committee's bill would expand and clarify the circumstances under which the provision of data or information by PSRO's would not violate the confidentiality requirement of law.

Under present law, any data or information acquired by a PSRO in the exercise of its duties must be held in confidence and may not be disclosed to any person except (1) to the extent that may be necessary to carry out the purpose of the PSRO provisions, or (2) in such cases and under such circumstances as the Secretary shall by regulations provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care. Interim regulations issued by the Department on December 3, 1976, provide for the disclosure of two types of information acquired by the PSRO:

1. Data and information acquired by the PSRO: (a) which has been published; (b) which has not been identified by the source as confidential; and (c) whose disclosures are not otherwise prohibited by law.

2. Summary statistics aggregated from the Uniform Hospital Discharge Data Set (UHDDS) to the extent that it is not identifiable to an individual patient or health care practitioner.

The bill would expand and clarify those circumstances under which the provision of data or information would not violate the confidentiality provisions to include: (1) provision of data or information by the PSRO, on the basis of its finding as to evidence of fraud or abuse, to Federal or State agencies recognized by the Secretary as having responsibility for the identification or detection of fraud and abuse activities; such data and information may be provided at the request of the recognized agencies at the discretion of the PSRO; and (2) provision of aggregate statistical data to agencies having responsibility for health planning and related activities under Federal or State law. The data and information furnished to the planning agencies would be provided in the format and manner prescribed by the Secretary or agreed upon by the agencies and the PSRO. Such data and information would be in the form of aggregate statistical data on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished and the demographic characteristics of the population whose services are subject to review by the PSRO. However, the data would not identify any individual.

Data and information made available to Federal or State agencies recognized by the Secretary as having responsibility for identifying



and investigating fraud and abuse may not be further disclosed except when the disclosure is made in the course of a legal, judicial, or administrative proceeding. Violation of this prohibition would result in application of the penalty specified in existing law.

The committee has included this provision to facilitate the exchange of data and information with other agencies while at the same time assuring that the confidentiality of patient records will not be violated. The committee has received information that PSRO's which have identified suspected cases or widespread patterns of fraud and abuse have been unable to make the information available to enforcement agencies. The committee also notes that the provision of aggregate statistical data to Federal and State planning agencies will enable those bodies to develop a more accurate picture of medical care patterns in their areas, facilitate planning for future resource needs, and prevent unnecessary duplicative data gathering activities.

The bill also includes a provision to protect patient records from subpoena or discovery proceedings in a civil suit. This provision, however, would not preclude the subpoena or discovery of originals or copies of the same documents in the possession of others.

The amendment made by this subsection would be effective upon enactment.

#### *Legal Expenses (Section 5(i))*

The committee's bill provides for payment of legal fees in connection with the defense of suits brought against a PSRO related to the performance of its functions. The bill would authorize the Secretary to assume responsibility for legal fees incurred in connection with the defense of any suit, action, or proceeding brought against the PSRO or any of its members or employees related to the performance of its functions. While all PSRO's currently have liability insurance which covers such attorneys' fees, this provision would serve as an additional guarantee in the event such insurance is subsequently withdrawn.

The amendment made by this subsection shall be effective upon enactment.

#### *Payment of PSRO Expenses (Section 5(j))*

The committee's bill would clarify the intent of present law that payment for PSRO expenses is to be made from Federal funds.

Under present law, expenses incurred by PSRO's are payable from medicare trust funds and from funds appropriated to carry out the other health care provisions of the Social Security Act. The bill would clarify that it is not intended that States or local governmental entities contribute toward these expenses, as they normally must do to receive Federal matching funds under title XIX.

The amendment made by this subsection would be effective upon enactment.

#### *Annual Reports (Section 5(k))*

Current law does not require the preparation of a detailed report on the activities, cost, and impact of the PSRO program. The committee believes that this information is necessary to determine the status of program operations, to evaluate the progress of program implementation, and to assess the program's effectiveness.

The bill committee therefore requires the Secretary to submit annual reports to the Congress by April 1 of each year beginning in 1978 on the administration, impact, and cost of the PSRO program during the preceding fiscal year. The reports must include program data on each PSRO; institutions and practitioners whose services are subject to review; penalties and sanctions; total costs under titles V, XI, XVIII, and XIX in the implementation of all required review procedures; changes attributable to PSRO activities; results of program evaluation activities; extent to which PSRO's are performing reviews for other private or governmental programs; and legislative recommendations.

The amendment made by this subsection would be effective upon enactment.

*Medical Officer (Section 5(l))*

The bill would include medical officers in American Samoa, the Northern Mariana Islands and the Trust Territory of the Pacific Islands in the PSRO program. In these areas medical officers rather than doctors of medicine provide medical care. The bill would therefore permit medical officers licensed to practice medicine in these localities to participate in the PSRO program. These individuals may not, however, serve on the National Council or make any final determinations with respect to medical necessity or appropriateness of care provided by a duly licensed doctor of medicine or osteopathy.

The amendment made by this subsection would be effective upon enactment.

*Payment for Review of Part B Services Provided by Hospitals (Section 5(m))*

Public Law 94-182, enacted on December 31, 1975, included an amendment to the medicare program which was designed to equalize reimbursement for PSRO hospital review activities whether such review was carried out by a hospital under delegation from a PSRO or by the PSRO itself. Previously, only delegated review activities could be funded out of the medicare trust funds. Under the new law, PSRO expenses in carrying out nondelegated review for hospital services covered under medicare part A or medicaid or the maternal and child health program would also be reimbursed through this mechanism. The law did not, however, provide for similar funding for PSRO review of hospital services covered under medicare part B.

Accordingly, the bill corrects this oversight by providing that funding for delegated review activities for services provided by a hospital which are covered under medicare part B shall be made from the medicare trust funds.

The amendment made by this subsection would be effective upon enactment.

*Statewide Councils (Section 5(n))*

The bill extends the protection currently provided to members and employees of a PSRO from criminal prosecution or civil liability when carrying out PSRO functions to members and employees of Statewide Professional Standards Review Councils.

The amendment made by this subsection would be effective upon enactment.

*Technical Corrections (Section 5(o))*

The committee bill makes technical corrections in sections 1152(b)(1)(A), 1155(a)(1), and 1160(b)(1) of the act.

*Physician Review (Section 5(p))*

The committee bill deletes the current law distinction, based on whether a hospital has or has not been delegated PSRO review, in determining those physicians who may be responsible for review activities.

Under current PSRO review provisions, a physician is ordinarily prevented from being responsible for the review of hospital care and services provided in any hospital in which he has active staff privileges when the review of such services has not been delegated to the hospital by a PSRO. However, where review has been delegated to the hospital, a physician with active staff privileges in that facility may be responsible for the review.

The committee notes that there is no evidence that such a distinction in the qualification of the physician responsible for the review is necessary. The decision whether or not to delegate review is not necessarily related to the ability of an individual physician with active staff privileges in a particular hospital to do the required review, but is more likely to be related to other factors. The committee has concluded that the existing prohibition places an undue burden on nondelegated hospital review.

The committee bill therefore deletes the restriction contained in current law which ordinarily prevents physicians with active staff privileges in a hospital from being responsible for review in a facility if review responsibilities have not been delegated.

From:

General explanation of the bill, p. 32

*Abolition of Program Review Teams Under Medicare (Section 13)*

The committee bill repeals the provisions in current law relating to program review teams.

The Social Security Amendments of 1972 included a provision authorizing the Secretary to suspend or terminate medicare payments to a supplier of services found to have abused the program. In the case of such a suspension or termination, Federal participation was also to be withheld for medicaid payments made in behalf of such supplier. This provision was included to permit HEW to bar future payments to suppliers who have made a practice of furnishing inferior or harmful supplies or services, engaging in fraudulent activities, or consistently overcharging for their services.

To assist him in making determinations under this section, the Secretary was required to establish program review teams in each State. These professionally based bodies were to advise the Secretary concerning such matters as whether excessive, harmful, or grossly inferior care is being rendered to patients. The functions of program review teams relating to the review of the quality and appropriateness of services are essentially duplicative of the functions required to be performed by PSRO's.

The committee bill therefore deletes the requirements in current law pertaining to the establishment and responsibilities of program review teams with the expectation that the appropriate PSRO will instead be available to advise the Secretary in cases that require the application of professional medical judgment.

The amendment made by this section would be effective upon enactment.

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95th Congress, H.R. 3  
(pp. 1183-1192)

October 25, 1977

AMENDMENTS RELATED TO PROFESSIONAL STANDARDS REVIEW  
ORGANIZATIONS

SEC. 5. (a) Section 1152(e) of the Social Security Act is amended 42 USC 1320c-1.  
to read as follows:

"(e) Where the Secretary finds a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) to be competent to perform review responsibilities, the review, certification, and similar activities otherwise required pursuant to provisions of this Act (other than this part) shall not be applicable with respect to those providers, suppliers, and practitioners being reviewed by such Professional Standards Review Organization, except to the extent specified by the Secretary. Nothing in the preceding sentence shall be construed as rendering inapplicable any provision of this Act wherein requirements with respect to conditions for eligibility to or payment of benefits (as distinct from reviews and certifications made with respect to determinations of the kind made pursuant to paragraphs (1) and (2) of section 1155(a)) must be satisfied."

42 USC 1320c-4.

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42 USC 1320c-3.

(b) (1) Section 1154(b) of such Act is amended—

(A) by striking out “(which may not exceed 24 months)” in the first sentence and inserting in lieu thereof “(which may not exceed 48 months except as provided in subsection(c))”;

(B) by inserting “, in addition to review of health care services provided by or in institutions,” in the first sentence after “perform”; and

(C) by striking out “or ordered by physicians” and all that follows through “and organizations” in the second sentence and inserting in lieu thereof “by or in institutions (including ancillary services) and, in addition, review of such other health care services as the Secretary may require”.

Trial period,  
extension.

(2) Section 1154 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) If the Secretary finds that an organization designated under subsection (a) has been unable to perform satisfactorily all of the duties and functions required under this part for reasons beyond the organization’s control, he may extend such organization’s trial period for an additional period not exceeding twenty-four months.”.

42 USC 1320c-4.

(c) (1) Section 1155 of such Act is amended—

(A) by striking out “directly or indirectly involved in” in subsection (a) (6) (A) and inserting in lieu thereof “directly responsible for”;

(B) by striking out “any financial” in subsection (a) (6) (B) and inserting in lieu thereof “a significant financial”;

Grants.

(C) by inserting after subsection (f) (2) the following new paragraph:

“(3) Any such agreement with an organization under this part may be in the form of a grant or an assistance agreement.”; and

Review  
responsibility  
requests.

(D) by striking out subsection (g) and inserting in lieu thereof the following new subsection:

“(g) (1) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) requests review responsibility with respect to services furnished in shared health facilities, the Secretary must give priority to such request, with the highest priority being assigned to requests from organizations located in areas with substantial numbers of shared health facilities.

Ambulatory care  
services, review.

“(2) The Secretary shall require any Professional Standards Review Organization which is capable of exercising review responsibility with respect to ambulatory care services to perform review responsibility with respect to such services on and after a date not earlier than the date the organization is designated as a Professional Standards Review Organization (other than under section 1154) and not later than two years after the date the organization has been so designated, but any such designated Professional Standards Review Organization may be approved to perform such review responsibility at any earlier time if such organization applies for, and is found capable of exercising, such responsibility.”.

“Shared health  
facility.”  
42 USC 1301.

(2) Section 1101(a) of such Act is amended by inserting after paragraph (8) the following new paragraph:

“(9) The term ‘shared health facility’ means any arrangement whereby—

“(A) two or more health care practitioners practice their professions at a common physical location:

“(B) such practitioners share (i) common waiting areas, examining rooms, treatment rooms, or other space, (ii) the services of supporting staff, or (iii) equipment;



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"(C) such practitioners have a person (who may himself be a practitioner)—

"(i) who is in charge of, controls, manages, or supervises substantial aspects of the arrangement or operation for the delivery of health or medical services at such common physical location, other than the direct furnishing of professional health care services by the practitioners to their patients; or

"(ii) who makes available to such practitioners the services of supporting staff who are not employees of such practitioners;

and who is compensated in whole or in part, for the use of such common physical location or support services pertaining thereto, on a basis related to amounts charged or collected for the services rendered or ordered at such location or on any basis clearly unrelated to the value of the services provided by the person; and

"(D) at least one of such practitioners received payments on a fee-for-service basis under titles V, XVIII, and XIX in an amount exceeding \$5,000 for any one month during the preceding 12 months or in an aggregate amount exceeding \$40,000 during the preceding 12 months;

42 USC 701,  
1395, 1396.

except that such term does not include a provider of services (as defined in section 1861(u) of this Act), a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act), a hospital cooperative shared services organization meeting the requirements of section 501(e) of the Internal Revenue Code of 1954, or any public entity."

42 USC 1395.  
42 USC 300e.

26 USC 501.

(d)(1) Section 1158 of such Act is amended by adding at the end thereof the following new subsection:

Claim payments  
review.  
42 USC 1320c-7.

"(c) Where a Professional Standards Review Organization (whether designated on a conditional basis or otherwise) has been found competent by the Secretary to assume review responsibility with respect to specified types of health care services or specified providers or practitioners of such services and is performing such reviews, determinations made pursuant to paragraphs (1) and (2) of section 1155 (a) in connection with such reviews shall constitute the conclusive determination on those issues (subject to sections 1159, 1171(a)(1), and 1171(d)(3)) for purposes of payment under this Act, and no reviews with respect to those determinations shall be conducted, for purposes of payment, by agencies and organizations which are parties to agreements entered into by the Secretary pursuant to section 1816, carriers which are parties to contracts entered into by the Secretary pursuant to section 1842, or single State agencies administering or supervising the administration of State plans approved under title XIX."

42 USC 1320c-4.  
42 USC 1320c-8.  
*Post*, p. 1186.

42 USC 1395h.

42 USC 1395u.

(2)(A) Section 1152(b)(2) of such Act is amended by striking out "submitted to him by the association, agency, or organization" and inserting in lieu thereof "which shall be developed and submitted by the association, agency, or organization in accordance with subsection (h)."

42 USC 1320c-1.

(B) Section 1152 of such Act is further amended by adding at the end thereof the following new subsection:

State health care  
facility plans,  
preparation.

"(h)(1) During the development and preparation by an organization of its formal plan under subsection (b)(2) or of any modification of such plan to include review of services in skilled nursing facilities (as defined in section 1861(j)) or intermediate care facilities (as defined in section 1905(c)) or review of ambulatory care services, the organization shall consult with the single State agency responsible

42 USC 1395x.  
42 USC 1396d.

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42 USC 1396.

for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located.

"(2) Such plan and any such modification shall be submitted to the Governor of such State, at the time of its submission to the Secretary, for his comments.

"(3) The Secretary, before making the findings described in subsection (b) (2) or a finding regarding the organization's capability to perform review of such services (as the case may be), shall consider any such comments submitted to him by such Governor before the end of the thirty-day period beginning on the date of submission of the plan or of any such modification (as the case may be).

"(4) If, after considering such comments, the Secretary intends to make findings which are adverse to such comments, the Secretary shall provide the Governor making such comments with the opportunity to submit additional evidence and comments on such intended findings during a period of not less than thirty days ending before the findings became effective."

Evaluation  
procedures.  
*Anle.* p. 1184.

(C) Section 1154 of such Act (as amended by subsection (b) (2) of this section) is further amended by adding after subsection (d) the following new subsection:

"(e) In determining whether an organization designated on a conditional basis as the Professional Standards Review Organization for any area is substantially carrying out its duties in a satisfactory manner and should be considered a qualified organization, the Secretary shall follow the procedures specified in section 1152(h) (concerning the Secretary's consideration of comments of the Governor of the State in which the organization is located)."

*Anle.* p. 1185.

(D) Part B of title XI of such Act is amended by adding after section 1170 the following new section:

42 USC  
1320c-19.

"MEMORANDUMS OF UNDERSTANDING; FEDERAL-STATE RELATIONS  
GENERALLY

42 USC  
1320c-20.  
42 USC 1320c-4.

"SEC. 1171. (a) (1) Except as provided in paragraph (2), no determination made by a Professional Standards Review Organization pursuant to paragraphs (1) and (2) of section 1155(a) in connection with reviews shall constitute conclusive determinations under section 1158(c) for purposes of payment under title XIX, unless such organization has entered into a memorandum of understanding, approved by the Secretary, with the single State agency responsible for administering or supervising the administration of the State plan approved under title XIX for the State in which the organization is located (hereinafter in this section referred to as the 'State agency') for the purpose of delineating the relationship between the organization and the State agency and of providing for the exchange of data or information, and for administrative procedures, coordination mechanisms, and modification of the memorandum at any time that additional responsibility for review by the organization is authorized by the Secretary.

*Anle.* p. 1185.  
42 USC 1396.

Waiver.

"(2) The requirement of paragraph (1) may be waived by the Secretary if (A) the State agency indicates to the Secretary that it does not wish to enter into a memorandum of understanding with the organization involved, or (B) the Secretary finds that the State agency has refused to negotiate in good faith or in a timely manner with the organization involved.

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"(b)(1) The State agency may request a Professional Standards Review Organization which is entering into such a memorandum of understanding with the agency to include in the memorandum a specification of review goals or methods (additional to any such goals or methods contained in the organization's formal plan) for the performance of the organization's duties and functions under this part.

Review goals and methods, specification.

"(2) If the agency and the organization cannot reach agreement regarding the inclusion of any such requested specification, the Secretary shall review such specification and shall require that the specification be included in the memorandum to the extent that the Secretary determines that such specification of goals or methods (A) is consistent with the functions of the organization under this part and with the provisions of title XIX and the State's plan approved under such title, and (B) does not seriously impact on the effectiveness and uniformity of the organization's review of health care services paid for under title XVIII and title XIX of this Act.

42 USC 1396.

"(c) Notwithstanding any other provision of this Act, the State agency may contract with any Professional Standards Review Organization located in the State for the performance of review responsibilities in addition to those performed pursuant to this part (and the cost of performance of such additional responsibilities is reimbursable as an expense of the State agency under section 1903(a)) if—

42 USC 1395.  
Additional State review requests.

"(1) the State agency formally requests the performance of such additional responsibilities, and

42 USC 1396b.

"(2) the performance of such additional responsibilities is not inconsistent with this part and is provided for in an amendment to the State's plan which is approved by the Secretary under title XIX.

"(d)(1) Each State agency may monitor the performance of review responsibilities by Professional Standards Review Organizations located within the State, in accordance with a State monitoring plan which is developed after review and comment by such organizations and is approved by the Secretary. The costs of activities of the State agency under and in accordance with such plan are reimbursable as an expense of the State agency under section 1903(a).

State monitoring plans.

"(2) A monitoring plan developed and approved under paragraph (1) may include a specification of performance criteria for judging the effectiveness of the review performance of the Professional Standards Review Organizations. If the State agency and the Professional Standards Review Organizations cannot reach agreement regarding such criteria, the Secretary shall assist the agency and organizations in resolving the matters in dispute.

"(3)(A) Whenever a State agency monitoring the performance of review responsibilities by a Professional Standards Review Organization under a plan developed and approved under paragraph (1) submits to the Secretary reasonable documentation that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the appropriateness of care received by individuals under the State's plan approved under such title, and requests the Secretary to act, the Secretary shall, within thirty days from the date of receipt of the documentation, make a determination as to the reasonableness of the allegation by the State agency. If the Secretary determines that the review determinations of such organization have caused an unreasonable and detrimental impact on total State expenditures under title XIX and on the appropriateness of care received by individuals under the State's plan approved under such title, unless the Secretary determines that

Review organization's authority, suspension.

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*Ante*, p. 1185.  
42 USC 1396.  
42 USC 1395.

Notification of  
congressional  
committees.

Procedures and  
mechanisms,  
development.

Review  
committees of  
hospitals and  
other health care  
facilities.  
42 USC 1320c-4.  
*Post*, p. 1207.  
42 USC 1396d.

the organization has taken appropriate corrective action, he shall immediately suspend such organization's authority in whole or in part under section 1158(c) to make conclusive determinations for purposes of payment under title XIX (and he may suspend such authority for purposes of payment under title XVIII) until he (i) reevaluates such organization's performance of the responsibilities involved and determines that such performance does not have such unreasonable and detrimental impact, or (ii) determines that the organization has taken appropriate corrective action. Any determination made by the Secretary under this subparagraph shall be final and shall not be subject to judicial review.

"(B) The Secretary shall notify the State agency submitting such documentation, and the organization involved, in writing, of his determination, any subsequent actions taken, and the basis thereof, and shall notify the appropriate committees of the United States House of Representatives and the Senate of any such documentation submitted and the actions taken.

"(e) (1) The Secretary shall in a timely manner establish procedures and mechanisms to govern his relationships with State agencies under this part (specifically including his relationships with such agencies in connection with their respective functions under the preceding provisions of this section). Such mechanisms shall include periodic consultation by the Secretary with State agency representatives and representatives of Professional Standards Review Organizations regarding relationships between such agencies and such organizations (including the appropriate exchange of data and information between such agencies and such organizations) and other problems of mutual concern, and such procedures shall permit the State agency to be represented on any project assessments conducted by the Secretary with respect to a Professional Standards Review Organization located within its State.

"(2) Each Professional Standards Review Organization shall provide to the State agency for the State in which it is located, upon request, data or information which the Secretary requires such organizations to report to him routinely on a periodic basis, and such other data or information as the Secretary authorizes to be disclosed."

(3) (A) Section 1155(e) (1) of such Act is amended by striking out "of a hospital or other operating health care facility or organization" and inserting in lieu thereof "of a hospital (including any skilled nursing facility, as defined in section 1861(j), or intermediate care facility, as defined in section 1905(c), which is also a part of such hospital) or other operating health care facility or organization (other than such a skilled nursing facility or intermediate care facility which is not a part of a hospital)".

(B) Section 1155(a) of such Act is amended—

(i) by inserting "(except as provided in paragraph (7))" in paragraph (1) after "institutional and noninstitutional providers of health care services"; and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) (A) Except as provided in subparagraph (B), a Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities (as defined in section 1905(c)) and in public institutions for the mentally retarded (described in section 1905(d)(1)) only if (i) the Secretary finds, on the basis of such documentation as he may require from the State, that



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the single State agency which administers or supervises the administration of the State plan approved under title XIX for that State is not performing effective review of the quality and necessity of health care services provided in such facilities and institutions, or (ii) the State requests such organization to assume such responsibility.

42 USC 1396.

“(B) A Professional Standards Review Organization located in a State has the function and duty to assume responsibility for the review under paragraph (1) of professional activities in intermediate care facilities in the State that are also skilled nursing facilities (as defined in section 1861(j)), to the extent that the Secretary finds that the performance of such function by the single State agency (described in subparagraph (A)) for that State is inefficient.”.

Post, p. 1207.

(e) Section 1160(b)(1) of such Act is amended by striking out “practitioner or provider” and inserting in lieu thereof “health care practitioner or hospital, or other health care facility, agency, or organization” each time it appears therein.

42 USC 1320c-9.

(f) Section 1163(a)(2) of such Act is amended to read as follows:  
“(2) Members of the Council shall be appointed for a term of three years, except that the Secretary may provide, in the case of any terms scheduled to expire after January 1, 1978, for such shorter terms as will ensure that (on a continuing basis) the terms of no more than four members expire in any year. Members of the Council shall be eligible for reappointment.”.

National  
Professional  
Standards  
Review Council  
members, term.  
42 USC  
1320c-12.

(g) Section 1163 of such Act is amended by striking out subsection (f).

(h) Section 1166 of such Act is amended—

Data and  
information.  
42 USC  
1320c-15.

(1) by striking out “or (2)” in subsection (a) and inserting in lieu thereof “(2)”;

(2) by inserting the following immediately before the period at the end of subsection (a): “, or (3) in accordance with subsection (b)”;

(3) by redesignating subsection (b) as subsection (c);

(4) by inserting the following new subsection immediately after subsection (a);

“(b) A Professional Standards Review Organization shall provide, in accordance with procedures established by the Secretary, data and information—

“(1) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by such organization to such agencies at the request of such agencies at the discretion of such Organization on the basis of its findings with respect to evidence of fraud or abuse; and

“(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such Organization, and shall be in the form of aggregate statistical data (without identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such Organization.



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The penalty provided in subsection (c) shall not apply to the disclosure of any data and information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such data and information) of any such data and information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the data and information.”; and

Patient records,  
nondisclosure.  
42 USC  
1320c-15.

(5) by inserting after subsection (c) (as so redesignated) the following new subsection:

“(d) No patient record in the possession of a Professional Standards Review Organization, a Statewide Professional Standards Review Council, or the National Professional Standards Review Council shall be subject to subpoena or discovery proceedings in a civil action.”.

Payment.  
42 USC  
1320c-16.

(i) Section 1167 of such Act is amended by adding the following new subsection at the end thereof:

“(d) The Secretary shall make payment to a Professional Standards Review Organization, whether conditionally designated or qualified, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function of such organization, member, or employee (as described in section 1155).”.

42 USC 1320c-4.  
42 USC  
1320c-17.

(j) Section 1168 of such Act is amended by adding at the end thereof the following new sentence: “The Secretary shall make payments to Professional Standards Review Organizations (whether designated on a conditional basis or otherwise) from funds described in the first sentence of this section (without any requirement for the contribution of funds by any State or political subdivision thereof) for expenses incurred in the performance of duties by such Organizations.”.

Annual report to  
Congress.  
*Ante*, p. 1186.

(k) Part B of title XI of such Act (as amended by subsection (d) (2) (D) of this section) is further amended by adding after section 1171 the following new section:

“ANNUAL REPORTS

42 USC  
1320c-21.

“SEC. 1172. The Secretary shall submit to the Congress not later than April 1, 1978, and not later than April 1 of each year thereafter, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

“(1) the number, status (conditional or otherwise), and service areas of, and review methodologies employed by, all Professional Standards Review Organizations participating in the program;

“(2) the number of health care institutions and practitioners whose services are subject to review by Professional Standards Review Organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

“(3) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

“(4) the total costs incurred under titles V, XI, XVIII, and XIX of this Act in the implementation and operation of all pro-

42 USC 701,  
1301, 1395,  
1396.

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cedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality;

"(5) changes in utilization rates and patterns, and changes in medical procedures and practices, attributable to the activities of Professional Standards Review Organizations;

"(6) the results of program evaluation activities, including the operation of data collection systems and the status of Professional Standards Review Organization data policy and implementation;

"(7) the extent to which Professional Standards Review Organizations are performing reviews of services for other governmental or private health insurance programs; and

"(8) recommendations for legislative changes."

(l) (1) Title XI of such Act (as amended by subsections (d) (2) (D) and (k) of this section) is further amended by adding after section 1172 the following new section: *Ante*, p. 1190.

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE PROFESSIONAL STANDARDS REVIEW PROGRAM

"Sec. 1173. For purposes of applying this part (except sections 1155(c) and 1163) to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine." 42 USC 1320c-22.  
42 USC 1320c-4,  
1320c-12.

(2) The second sentence of section 1101(a)(1) of such Act is amended by inserting "and in part B of this title" after "title V". 42 USC 1301.

(m) Section 1861(w)(2) of such Act is amended by inserting "part B of this title or under" immediately after "entitled to have payment made for such services under". 42 USC 1395x.

(n) Section 1167 of such Act is amended—

(1) by inserting "or to any Statewide Professional Standards Review Council" in subsection (a) after "Professional Standards Review Organization"; 42 USC 1320c-16.

(2) by inserting "or such Council" in subsection (a) after "such Organization";

(3) by inserting "or of any Statewide Professional Standards Review Council" in subsection (b)(1) after "Professional Standards Review Organization";

(4) by inserting "or council" in subsection (b)(1) after "organization";

(5) by inserting "or of Statewide Professional Standards Review Councils" in subsection (b)(1) after "Review Organizations"; and

(6) by inserting "AND STATEWIDE PROFESSIONAL STANDARDS REVIEW COUNCILS" in the heading of the section after "PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS".

(o) (1) Section 1152(b)(1)(A) of such Act is amended by striking out "subsection (c)(i)" and inserting in lieu thereof "subsection (c)(1)". 42 USC 1320c-1.

(2) Section 1155(a)(1) of such Act is amended by striking out "(subject to the provisions of subsection (g))" in the matter preceding subparagraph (A). 42 USC 1320c-4.

(3) Section 1160(b)(1) of such Act is amended by inserting "or" after "permanently" in the matter following subparagraph (B). *Ante*, p. 1189.

(p) Section 1155(a)(5) of such Act is amended by striking out all that follows "Professional Standards Review Organization" and inserting in lieu thereof a period. 42 USC 1320c-4.

APPENDIX E

MANDATORY CONTINUING EDUCATION FOR IOWA PROFESSIONAL ENGINEERS



JUN 2 1978

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C. J. Wagner

## MANDATORY CONTINUING EDUCATION FOR IOWA PROFESSIONAL ENGINEERS

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In 1977 The State of Iowa adopted a continuing education law which mandates continuing education as a requirement for license renewal for all state licensing boards. Under provision of this law, the continuing education may be obtained through formal or informal education, self-study, research or participation in professional, technical, and occupational societies and by other means as authorized by the appropriate licensing board. The licensing board also has the responsibility of establishing minimum level requirements. This paper presents the potential application of this law to professional engineers through a discussion of the professional development rules recently proposed by The Iowa State Board of Engineering Examiners. These rules are now under public hearing prior to final approval and publication.

### Introduction

By virtue of a law passed in 1977 and which became effective January 1, 1978, The State of Iowa has become the first state in the nation to have a mandatory continuing education requirement for professional engineers. Under the proposed implementing rules, each registered professional engineer or land surveyor in the State, will effective January 1, 1980, have to meet certain minimum professional development requirements as a condition to his or her license renewal. The precedent-setting nature of these developments suggests that both affected individuals and responsible engineering educators become familiar with this law and its proposed implementation.

### Definition of Continuing Education

Continuing education is defined in the law<sup>1,2</sup> as "that education which is obtained by a professional or occupational licensee in order to maintain, improve, or expand skills and knowledge

obtained prior to initial licensure or to develop new and relevant skills and knowledge."

### Requirement for Mandatory Continuing Education

The law<sup>1,2</sup> goes on to state that "Each licensing board shall require and issue rules for continuing education requirements as a condition to license renewal." These rules "shall create continuing education requirements at a minimum level ..." and shall also:

- Give due attention to the effect of continuing education requirements on interstate and international practice.
- Place the responsibility for arrangement of financing of continuing education on the licensee, while allowing the board or continuing education provider to receive any other available funds or resources that aid in supporting a continuing education program.
- Attempt to express continuing education requirements in terms of uniform and widely-recognized measurement units.
- Establish guidelines, including guidelines in regard to the monitoring of licensee participation, for the approval of continuing education programs that qualify under the continuing education requirements prescribed.
- Not be implemented for the purpose of limiting the size of the profession or occupation.
- Define the status of active and inactive licensure and establish appropriate guidelines for inactive licensee reentry.
- Be promulgated solely for the purpose of assuring a continued maintenance of skills



and knowledge by a professional or occupational licensee directly related and commensurate with the current level of competency of the licensee's profession or occupation.

A discussion of the implementation of points c and d in the proposed rules<sup>3</sup> of the Iowa State Board of Engineering Examiners forms the basis for the remainder of this paper.

### The Professional Development Hour

The basic unit for measuring professional development is the "Professional Development Hour" or PDH. The conversion to this unit from other more recognizable units is as follows:

Number and Type of Other Units	Number of PDH
1 Semester Hour of University Credit	45
1 Quarter Hour of University Credit	30
1 Continuing Education Unit (CEU)	10
400 Hours of Professional Practice	10
1 Contact Hour of Other Acceptable Professional Development	1

The conversion for university credit courses are consistent with the rule of one professional development hour in class and two professional development hours of outside study each week of the term for each credit hour earned. Ten PDH are awarded for each 400 hours of practice completed. No fraction of 10 PDH are awarded for a lesser number of professional practice hours.

### Annual Requirement of Professional Development Hours

Eighty professional development hours are required each one-year period ending on December 31 preceding annual license renewal. These hours must contribute directly to the professional competency of the registrant and are to be earned in three categories with minimum levels specified for each of the last two categories. These categories are:

- Professional Development Hours Allowed for Practice
- Formal Professional Development Hours
- Informal Professional Development Hours

The number of hours that are awarded for the first category, as well as the minimum number of PDH that must be earned in the second and third categories, are dependent upon whether or not the licensee is engaged in full time practice. The licensee engaged full-time (over 1600 hours per year) is awarded 40 PDH; in addition, at least 15 and 25 PDH must be earned in formal and informal development, respectively. Table 1 provides summary requirements for various levels of professional practice.

### Formal Professional Development Activities

Activities which satisfy the formal professional development requirement include college and university courses, technical seminars, tutorials, short courses and technical meetings. These activities must meet the following criteria:

- There is a clear purpose and objective for each activity.
- The content of each presentation is well organized and presented in a sequential manner.
- There is evidence of pre-planning which should include the opportunity for input by the target group to be served.
- The presentation will be made by persons who are well qualified by education or experience.
- There is a provision for individual participant registration which will include information required for record keeping and reporting.
- There is a provision for evaluation of each individual participant appropriate to the material presented. This may consist of attendance records, participant performance,

\*\*\*\*\*

Table 1. Annual Requirement of Professional Development Hours

Hours per year of Engineering or Land Surveying Practice		Professional Development Hours Allowed for Practice	Formal Professional Development Hours Required	Informal Professional Development Hours Required	Total Professional Development Hours Required
From	To				
0	399	0	30	50	80
400	799	10	26	44	80
800	1199	20	22	38	80
1200	1599	30	18	32	80
1600	—	40	15	25	80

self-learning summaries, examinations, evaluative critiques, or any combination of these.

University courses and activities which are awarded continuing education units satisfy these criteria. Activities such as technical meetings which usually do not award credit or CEU's will be accepted if approved by the Board.

Additional activities which satisfy the formal professional development requirement include sabbaticals or leaves for study or research, published books, articles or papers, presentations at technical meetings and instruction of a continuing education course. Prior approval of the Board may be requested in doubtful cases.

The formal professional development hours may also be earned by averaging the annual number of formal professional development hours accumulated during the three-year period ending on the December 31 preceding annual license renewal, thus permitting, for example, the registrant to take a 1 semester hour credit course every three years to satisfy the minimal formal requirements.

#### Informal Professional Development Activities

Activities which satisfy the informal requirement are self-study, reading, attendance at technical and professional meetings, participation in local, state and national technical and professional societies, and other similar activities.

#### Multiple Branch Registration

Requirements for registrants in more than one branch of engineering are satisfied by the basic requirement; however, registrants in both professional engineering and land surveying must meet the requirements of Table 2.

#### Inactive Registrants

Registrants who are not engaged in practice in Iowa may apply for and be granted inactive status. A person who wishes to reinstate a lapsed

registration, or a registrant on inactive status shall satisfy the following requirement for reinstatement:

- a. Inactive status for 0 to 7 years and inactive status for longer than 7 years with 800 hours or more per year of practice:
  - (1) Satisfaction of the basic requirement multiplied by the number of years on inactive status with a maximum of 3, or
  - (2) Successful completion of the Principles of Practice examination within one year immediately prior to application for reinstatement.
- b. Inactive status for longer than 7 years with less than 800 hours per year of practice:
  - (1) Satisfaction of the basic requirement multiplied by three, and
  - (2) Successful completion of the Principle of Practice examination within one year immediately prior to application for reinstatement.

#### Exemptions

Registrants are deemed to have complied with the continuing education requirements:

- a. during periods that the registrant serves honorably on active duty in the military services,
- b. during periods that the registrant is a resident of another state or district having a continuing education requirement for professional engineering and/or land surveying and meets all requirements of that state or district for practice therein, or
- c. during periods that the registrant is an employee working on his or her licensed specialty and assigned to duty outside of the United States.

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Table 2. Annual Requirement of Professional Development Hours for PE/LS Registrants

Hours per year of Combined Engineering/Land Surveying Practice		Professional Development Hours Allowed for Practice	Formal Professional Development Hours Required		Informal Professional Development Hours Required in Engineering and/or Land Surveying	Total Professional Development Hours Required
From	To		in Engineering	in L.S.		
0	399	0	20	20	60	100
400	799	10	17.5	17.5	55	100
800	1199	20	15	15	50	100
1200	1599	30	12.5	12.5	45	100
1600	—	40	10	10	40	100

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The Board may also in individual cases involving hardship or extenuating circumstances, and upon written request, grant waivers of the continuing education requirements for a period of time not to exceed one year.

#### Acknowledgement

The author acknowledges the considerable assistance of his colleague Professor Harrison Kane, a member of the Iowa State Board of Engineering Examiners.

#### References

1. "Excerpts Regarding Continuing Education from Senate File 312," Iowa State Board of Engineering Examiners, August, 1977. (also included in Reference 2).
2. Brown, Ronald D., "Continuing Education: What New Law is All About," The Exponent, August, 1977.
3. "Draft Professional Development Rules," Iowa State Board of Engineering Examiners, March 4, 1978.

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1978 ASEE ANNUAL CONFERENCE PROCEEDINGS

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# Chapter 3 Professional Development

- 3.1 General Statement: Each registrant is required to meet the requirements of this chapter for professional development as a condition of license renewal.
- 3.2 Units. The unit for the professional development requirements is the Professional Development Hour (PDH). The conversion to this unit from other units is:

1 Hour of an acceptable professional development	1 PDH
400 Hours of practice .....	10 PDH
1 Semester hour of university credit .....	45 PDH
1 Quarter hour of university credit .....	30 PDH
1 CEU (Continuing Education Unit) .....	10 PDH

All activities must contribute directly to the professional competency of the registrant.

- 3.3 Basic Requirement. Eighty Professional Development Hours are required each year in accordance with the following table. The annual requirement must be satisfied during the one-year period ending on December 31 preceding annual license renewal except as noted in the table.

ANNUAL REQUIREMENT OF PROFESSIONAL DEVELOPMENT HOURS

Hours per year of Engineering or Land Surveying Practice		Professional Development Hours Allowed for practice	Formal Professional Development Hours Required (Note 1)	Informal Professional Development Hours Required	Total Professional Development Hours Required
From	To				
0	399	0	30	50	80
400	799	10	26	44	80
800	1199	20	22	38	80
1200	1599	30	18	32	80
1600	-	40	15	25	80

ote 1. The average annual number of formal professional development hours accumulated during the three-year period ending on the December 31 preceding annual license renewal may be used to satisfy this requirement.



Formal Professional Development Requirement. Activities which satisfy the formal requirement are college and university courses, technical, seminars, tutorials, short courses and technical meetings. These activities must meet the following criteria.

- (1) There is a clear purpose and objective for each activity.
- (2) The content of each presentation is well organized and presented in a sequential manner.
- (3) There is evidence of pre-planning which should include the opportunity for input by the target group to be served.
- (4) The presentation will be made by persons who are well-qualified by education or experience.
- (5) There is a provision for individual participant registration which will include information required for record keeping and reporting.
- (6) There is provision for evaluation of each individual participant appropriate to the material presented. This may consist of attendance records, participant performance, self-learning summaries, examinations, evaluative critiques, or any combination of these.

Activities which are awarded continuing education units (CEU's) and university courses satisfy these criteria. Activities, such as technical meetings, which meet these criteria but which do not carry college credit or CEU's will be accepted if approved by the Board.

Other activities which may be used to satisfy all or part of the formal professional development requirement are:

- Sabbatical or leave for study or research
- Published papers and articles
- Published books
- Presentations at technical meetings
- Instruction of continuing education course

These activities must be documented in each case and it is recommended that in doubtful cases approval of the Board be requested prior to undertaking the activity if credit is desired.

- 3.5 Informal Professional Development Requirement. Activities which satisfy the informal requirement are self-study, reading, attendance at technical and professional meetings, participation in local, state and national technical and professional societies, and other similar activities. The Board recommends that a variety of activities be undertaken in the satisfaction of this requirement.
- 3.6 Inactive Registrants. Registrants who are not engaged in professional engineering or land surveying practice in Iowa may upon application to the Board be granted inactive status. No registrant on inactive status may practice in Iowa. Inactive registrants are exempt from the professional development requirements in this chapter but shall satisfy the following requirements for reinstatement:



a. Inactive status for 0 to 7 years and inactive status for longer than 7 years with 800 hours or more per year of practice.

- (1) Satisfaction of the basic requirement (Par. 3.3) multiplied by the number of years on inactive status with a maximum of 3, or
- (2) Successful completion of the Principles of Practice examination within one year immediately prior to application for reinstatement.

b. Inactive status for longer than 7 years with less than 800 hours per year of practice.

- (1) Satisfaction of the basic (Par 3.3) requirement multiplied by 3, and
- (2) Successful completion of the Principles of Practice examination within one year immediately prior to application for reinstatement.

3.7 Multiple branch registrants. Professional development requirements for registrants in more than one engineering branch are satisfied by the basic requirements in Par. 3.3.

3.8 Engineer-Land Surveyor registrants. Registrants in both professional engineering and land surveying (PE/LS registrants) must meet the following basic requirements.

ANNUAL REQUIREMENT OF PROFESSIONAL DEVELOPMENT HOURS FOR PE/LS REGISTRANTS

Hours per year of combined Engineering/Land Surveying Practice		Professional Development Hours allowed for practice	Formal Professional Development Hours Required (Note 1)		Informal Professional Development Hours Required in Engineering and/or Land Surveying	Total Professional Development Hours Required
From	To		in Engineer'g	in L.S.		
0	399	0	20	20	60	100
400	799	10	17.5	17.5	55	100
800	1199	20	15	15	50	100
1200	1599	30	12.5	12.5	45	100
1600	-	40	10	10	40	100

Note 1. (Same as in Par. 3.3)

3.9 Reinstatement of lapsed registration. A person who wishes to reinstate a lapsed registration must satisfy the requirements for inactive registrant reinstatement given in 3.6

3.10 Exemptions. Registrants are deemed to have complied with the foregoing continuing education requirements:

- a. During periods that the registrant serves honorably on active duty in the military services,
- b. during periods that the registrant is a resident of another state or district having a continuing education requirement for professional engineering and/or land surveying and meets all requirements of that state or district for practice therein, or
- c. during periods that the registrant is an employee working in his or her licensed specialty and assigned to duty outside of the United States.

3.11

Hardships or extenuating circumstances. The Board may in individual cases involving hardship or extenuating circumstances grant waivers of the continuing education requirements for a period of time not to exceed one year. No waiver or extension of time shall be granted unless the registrant makes a written request to the Board for such action.



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